

WATER RIGHT CLAIMS EXAMINATION MANUAL

**ISSUED BY AND FOR
WATER RIGHTS BUREAU
WATER RESOURCES DIVISION
MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
LARRY HOLMAN, BUREAU CHIEF
BOB ARRINGTON, ADJUDICATION PROGRAM MANAGER**

May, 1995 Edition

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A. WHAT IS WATER RIGHTS ADJUDICATION

When a judge hears a case and renders a decision, the matter is said to have been adjudicated. In the arena of water rights, adjudication refers specifically to the settling of claims filed for water rights.

Before passage of the Montana Water Use Act in 1973, a person could gain a right to use water simply by putting that water to beneficial use. These rights are known as existing water rights. But no one knew how many existing water rights there were or exactly how much water had been appropriated. The Water Use Act, effective July 1, 1973, established a central repository for water right records and required prospective water users to apply for a permit before putting water to use. The act also recognized that the amounts, ownership, and priority dates for all existing water rights needed to be better defined. In 1979, the legislature modified the act by passing Senate Bill 76, which set up Montana's current system for adjudicating existing water rights.

Senate Bill 76 divided Montana into four water divisions and called for four judges, commonly known as the Water Court, to adjudicate all existing water rights in a statewide proceeding. At the same time, the Reserved Water Rights Compact Commission was created to negotiate compacts with federal agencies and Indian tribes wishing to quantify their federal reserved water rights in Montana. The activities of the commission are an integral part of the statewide adjudication process.

On June 6, 1979, the Montana Supreme Court issued an Order requiring every person claiming ownership of an existing water right to file a claim with the Department of Natural Resources and Conservation (department) no later than January 1, 1982. On December 7, 1981, the Supreme Court extended the deadline to April 30, 1982, at 5:00 p.m. Stockwater and domestic claims for groundwater or instream flow were exempted from this process, though such claims could be filed voluntarily.

By statute, claims not filed by the April 30, 1982 deadline are presumed to have been abandoned. In 1992, the Montana Supreme Court determined that the failure to file a statement of claim on or before April 30, 1982, resulted in the forfeiture of the water right. In 1993, the Fifty-Third Montana Legislature passed Senate Bill 310 providing for, under certain terms and conditions, the remission of the forfeiture of existing rights to the use of water caused by the failure of persons to file claims on or before April 30, 1982. Accordingly, a claim not filed with the department on or before April 30, 1982 (a late claim), may be filed by physically filing the claim with the department on or before July 1, 1996, or sending the claim by United States mail, postmarked on or before July 1, 1996.

Over 200,000 claims were received by the April 30, 1982 deadline. To date, over 3,300 late claims have been filed. Since all of these claims cannot be adjudicated at once, the claims are being handled systematically for each of Montana's 85 river basins. Each claim is examined by the department staff for completeness and accuracy, and apparent discrepancies are reported to the claimants and the Water Court. The reports are also made available to the public. When all the claims in a basin are verified, a decree is issued.

The first issuance of a decree by the Water Court is termed either a temporary preliminary decree or a preliminary decree. Temporary preliminary decrees are issued in basins containing federal reserved water rights where a compact has not been concluded. Such decrees contain all rights other than reserved rights being negotiated. In these basins, a preliminary decree will be issued as a second step in the process and will include all rights in the temporary preliminary decree along with all reserved rights in the basin. Adjudication in basins without federal reserved rights begins with a preliminary decree.

Notice of issuance of every decree is given to all parties that may be affected by it, along with notice of the time period for objecting to the rights or compacts in the decree. The water judge, with the help of a water master, hears and decides all objections. After all objections have been resolved, the water judge issues a final decree. On the basis of the final decree, the department will issue a Certificate of Water Right to each person decreed an existing water right. Water rights dated after July 1, 1973, are not subject to the adjudication process.

B. PROGRAM DESCRIPTION

The Adjudication Program involving the department and the Montana Water Court is responsible for the protection and confirmation of all rights to the use of water for any useful and beneficial purpose that existed prior to July 1, 1973, the effective date of the Montana Water Use Act.

1. Program Responsibilities. Generally the department's role in the program is to collect, compile, record, and examine claims for pre-1973 water rights filed pursuant to Senate Bill 76 and thereby assist the water courts in preparing preliminary and final decrees. More specifically, the department's responsibilities are:

- (i) Provide information and assistance to aid claimants in filing claims in accordance with 85-2-112(6), MCA. Even though the general filing deadline is past, late claims and amendments to filed claims are still received.
- (ii) Maintain the centralized record system of all existing water right claims as required by Article IX Section 3 of the Montana Constitution.
- (iii) Provide assistance and information to the water judges as required by 85-2-243, MCA. Meeting this objective involves the following areas:
 - Continue to examine water right claims in specified basins and provide a summary report upon completion to the court.
 - Respond to requests made by the water courts or the department's legal staff in conjunction with the litigation of objections to water court decrees.
- (iv) Review decrees issued by the Montana water courts, and submit either a list of potential problems pursuant to 85-2-243, MCA or objections to protect Montana's interests as allowed by 85-2-233, MCA.
- (v) Pursuant to 85-2-236, MCA, issue a certificate of water right to each person decreed an existing right in those basins where a final decree has been entered. Provide the county clerk and recorder quarterly and annual summary reports of all certificates issued by the department within the county.
(Note: No certificates have been issued to date for the six final decree basins because of

reserved rights issues in two basins and the potential reopening of all final decrees.)

- (vi) Improve the department's public relations image through positive contact with claimants during claims examination.

2. Program Goals. To provide the statewide adjudication with thorough and timely review of existing water rights claims for completeness, accuracy, and reasonableness. To check that the elements of a water right, individually and in combination, are reasonable and accurate using the policies and procedures specified in the examination manual. To identify for further review through the decree process those aspects of a water right that do not appear reasonable or accurate.

3. Policy And Procedures. The policy and procedures to implement the program goals are based on rules adopted by the Montana Supreme Court on July 15, 1987. These rules provide the general guidelines on how to examine claims.

To implement the general guidelines to examine claims as specified in the Supreme Court Rules, the department has written a more detailed manual entitled the "Water Right Claim Examination Manual."

The manual provides step-by-step procedures for department adjudication staff to follow in implementing the Supreme Court Rules on a day-to-day basis. The manual explains how to routinely apply those guidelines to specific claims and issues in a manner consistent with the state's computer data base. The manual also describes how the department claims examination is to be coordinated between the regional offices, the program manager, the records section, the water courts, and the claimants.

The Claim Examination Manual covers daily technical guidance to the adjudication staff for examining each element as prescribed by the Supreme Court Rules. By addressing the details of day-to-day claim examination, this manual serves the objective of consistent treatment of claims by different staff members and between different regional offices.

4. Claims Examination Overview. In general, the review of water right claims by the department consists of the following activities.

- Review the claim file to see if the claimed information is clear and understandable. If discrepancies exist in the claimed information, the claimant is usually contacted. The claim should clearly and accurately reflect the claimant's intent.
- Examine the claim against the available factual records and resources, i.e., maps, aerial photographs, courthouse

records, etc. In many cases, factual records and resources may be limited, in which case the claimed information is reviewed for reasonableness. Additional information may be requested from the claimant.

- If the examination raises issues and questions regarding the claimed information, the claimant is normally contacted. The result of this contact may or may not resolve the issues. In certain cases a field investigation may be conducted. Unresolved issues are reported in the department's examination report.
- The examination worksheet and supplement forms are microfilmed and used to update the computer data base. From the data base, a copy of the department's summary report is printed for the water court's review.

When examining claims, department personnel must abide by the following principles.

- The claimant may claim or adjust their claim as they wish. The final authority for determining the validity of changes is the water court's.
- Department claim examination personnel are not to draw legal conclusions or give legal advice.
- The department may explain the claim examination procedures and the adjudication process, and offer reasonable assistance with forms and paperwork to claimants.
- The department has a responsibility by statute to keep accurate records (including documenting claimant contacts, etc.) and to report facts and issues discovered during claim examination.

5. Decree Issuance. Following review of claims by the department, a Summary Report, which consists of Part A: Abstract of Water Right Claim, and Part B: Examination Report, is printed and reviewed by the water court prior to decree issuance.

The water court review of any basin is completed in Bozeman, and changes directed by the water court to the Summary Report are made by the department in Helena prior to the court's formal issuance of a decree. As directed by the water court, the department prints, prepares, and mails the decree from Helena. Included in the mailing process is an individual notice (commonly referred to as the Notice of Availability) to each owner of a claim, certificate and permit applicants, water reservation grantees, and other interested persons who requested notice.

The first issuance of a decree for a particular basin by the water court is termed either a temporary preliminary decree or a

preliminary decree. Temporary preliminary decrees are issued by the water court in those basins containing federal or Indian reserved water rights. These rights are subject to compact negotiation proceedings for the federal government and the several Indian tribes claiming reserved water rights within the state.

Adjudication by the water court beyond a temporary preliminary decree is suspended in basins with reserved water rights while negotiations for a compact are being pursued. Eleven or possibly twelve basins within Montana have no federal or Indian reserved water rights subject to compact negotiations and, therefore, may proceed to preliminary and final decree. Compacts negotiated and ratified to date are:

- Fort Peck-Montana Compact	1985 Legislature
- Northern Cheyenne-Montana Compact	1991 Legislature
- United States Park Service	1993 Legislature

After a temporary preliminary or preliminary decree has been issued, a minimum 180-day review period is provided by statute. The water judge may extend the time limit of the review period up to two additional 90-day periods for good cause shown. An objection to the findings and conclusions stated in the decree may be submitted to the water judge by the department, a person named in the decree, or any other person for good cause shown. The objection entitles the department or the person to a hearing before the water judge to resolve the objection.

Most objections are resolved prior to a hearing by status conferences and stipulations. After an objection is resolved through hearings, status conferences, or stipulations, the water court sends updated information to the department for inclusion into the centralized water right data base. Upon order from the water judge, the department prepares the next level decree (preliminary or final) for issuance.

C. COMMENTS FROM THE CHIEF WATER JUDGE

- We are adjudicating the waters of Montana. Water that belongs to all the people of Montana and the beneficial use of water that belongs to the claimants of that water.
- We are adjudicating the waters of Montana that are for the enjoyment and use of the people of Montana now and in the future.
- We must remember always that we are bound by the law, that we are not owners of this water, and that we are not to make "we know best" decisions.
- We will follow an aggressive, common-sense program seeking a balanced perspective.
- There is a job to do and we intend to do it. We will do this job as quickly as possible.
- The job we do will be as factually correct as possible. We will be following the rules that we have from the courts reasonably and sensibly.
- Our adjudication must be correct enough to withstand factual and legal analysis and attack--and this from within or without Montana.
- But with all that, we refuse to slow down on our job for absolute perfection. (That type of perfection is saved for Heaven and the Heavenly Hosts!)
- We know our job is adjudication, that is, identification, and not allocation and definitely not elimination.
- A copy of these methods, procedures, and testing shall be furnished to each person working on our adjudication program in the field offices, engineers, water masters and each judge.
- We insist they be followed. They are the result of months of study, revising, testing in actual drainages. Such unified methods and procedures followed by us all will result in a finished job, a job which we will all take pride in--more important, a job that will stand.

W.W. Lessley
Chief Water Judge
Montana Water Court

D. HISTORY OF THE ADJUDICATION PROGRAM

1. Legislative History. Article IX, Section 3(1) of the Montana Constitution (adopted in 1972) states "All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed." In response to this mandate, a water rights adjudication program was created by the 1973 Legislature under the Water Use Act (Senate Bill 444) to judicially and finally determine Montana's pre-1973 water rights.

The Department of Natural Resources and Conservation (department) had the responsibility of beginning proceedings to determine existing rights under the Water Use Act. Guided by the statutes at that time, the department organized the adjudication program and selected two Powder River basins to begin gathering data essential to the proper understanding and determination of existing rights. Approximately 10,000 existing water rights were examined by the department during a five year period in preparation for the two preliminary decrees.

The 1979 Legislature significantly amended the adjudication process with the passage of Senate Bill 76. In this legislation, a system of water judges (commonly referred to as the water court) with the responsibility to adjudicate water rights was established. The water court consists of four judges (one for each of the major water divisions in the state, i.e., Clark Fork, Yellowstone, Upper and Lower Missouri) plus a staff of water masters and clerical personnel. The chief water judge, who serves the Upper Missouri division, and all water court staff are located in Bozeman.

SB76 redefined the department's role from the former adjudication process (commonly referred to as the Powder River adjudication). The department was now statutorily mandated to provide information assistance to the water judges. In the former role, the department, as directed by the local district court, was to independently prepare draft preliminary decrees for the district court. Title 85, Chapter 2, Part 2 of the Montana Code Annotated contains the statutes to be followed in Montana's present adjudication process.

The Bill also created the Reserved Water Rights Compact Commission. This Commission was given the authority to negotiate and quantify federal reserved water rights with those entities, primarily federal agencies and Native Americans residing on reservations, having these unique rights. Results of the compacts upon ratification by Congress and the Legislature are to be included in the water court decree, issued under the statewide adjudication effort.

There are several notable court actions, all interrelated to some degree, which have had significant impacts on the adjudication. Beginning on January 30, 1975 the United States and Indian tribes filed seven cases over a four year period in United States District Court. Apparently these were filed in response to the department

beginning adjudication activities on the Tongue and Big Horn Rivers (under the Montana Water Use Act) and later in initiating statewide adjudication efforts (under Senate Bill 76). On November 26, 1979, the Federal District Court dismissed all seven cases in favor of ongoing statewide water right adjudication proceedings. The United States and the Indian tribes appealed the cases to the U.S. Circuit Court of Appeals.

The Ninth Circuit Court of Appeals consolidated the appeals for review and in Northern Cheyenne Tribe vs. Adsit ("Adsit") reversed the District Court. Then the State of Montana appealed the Circuit Court decision to the U.S. Supreme Court. On October 4, 1982 the United States Supreme Court granted Montana's petition and consolidated it with San Carlos Apache Tribe vs. Arizona. The Supreme Court, in July 1983, upheld the District Court's dismissal and stated that they were correct in deferring to the state proceedings.

2. Claim Filing And Recordation. Based on petitions from the Montana Attorney General, the Montana Supreme Court ordered that statements of claim for all existing water rights must be filed with the department by 5:00 p.m. on April 30, 1982. By statute, failure to file a claim as required resulted in a conclusive presumption that the water right had been abandoned.

Statement of Claim forms first became available November 15, 1979. These forms were made available at ten department offices statewide, at every County Clerk and Recorder and Clerk of Court office and in many County Extension, Soil Conservation Service (SCS) or Agricultural Stabilization and Conservation Service (ASCS) offices around the state. In addition to the forms the department made water use guidesheets, instructional brochures, and general informational brochures available.

To get the program off the ground the department, with assistance from the four water judges, conducted 19 public meetings in January and February of 1980. A total of 7,046 people attended these meetings and received specific information on the adjudication process. In addition to these public meetings and as required by statute several legal steps were taken to provide the people of Montana, especially property owners, with proper notice of the adjudication proceedings. The Water Rights Order issued by the Montana Supreme Court was printed in the 8 daily newspapers in the state and in at least 1 paper published in each county. The Order was published in a total of 59 papers within 30 days of its issuance and again during April of 1980, 1981, and 1982. To serve individual notice, the Water Rights Order and explanation were enclosed with every County Treasurer's statement of property tax in October 1979, 1980, and 1981. A copy of the Order was conspicuously posted in county courthouses within 30 days after issuance and again in 1980, 1981, and 1982.

The most successful public information and assistance efforts were the workshops conducted by the department on a regular

statewide basis throughout the filing period. From January to March of 1982, 238 assistance workshops were conducted in 50 different cities. Workshops were given to many special groups including the Montana Realtors Association, County Agricultural Extension Agents, Municipalities, County Clerk and Recorders, County Clerks of Court, and agricultural organizations such as Montana Stockgrowers Association. The department conducted two seminars for the State Bar of Montana in April 1980 and participated in a third in October 1981.

Extensive use was made of all media. Public service announcements for radio and television were produced and received wide coverage. A 30-minute film entitled "Crisis at our Headgate" received wide coverage in 1981 and early 1982. Weekly public service announcements providing workshop schedules were provided to all interested radio stations and newspapers in the state. Press releases were also sent out on a regular basis. Many, like the Stone/Dunbar/Eagle series, were major feature articles. These announcements were given good media coverage. Adjudication personnel participated in news programs and contacted media sources in their area to initiate coverage and special interest articles on the adjudication program. Direct mailings through the use of bulk mailing permits were used to announce meetings and deadlines in the fall of 1981 and early spring of 1982. Paid advertising was used moderately throughout the program. However, a fairly intensive advertising effort was made in December 1981 and March 1982.

On April 30, 1982 at 5:00 p.m. the deadline for filing Statements of Claim for existing pre-July 1, 1973 water rights passed. The department received 201,165 claims. See Figure I-1 for a statewide breakdown by type of use.

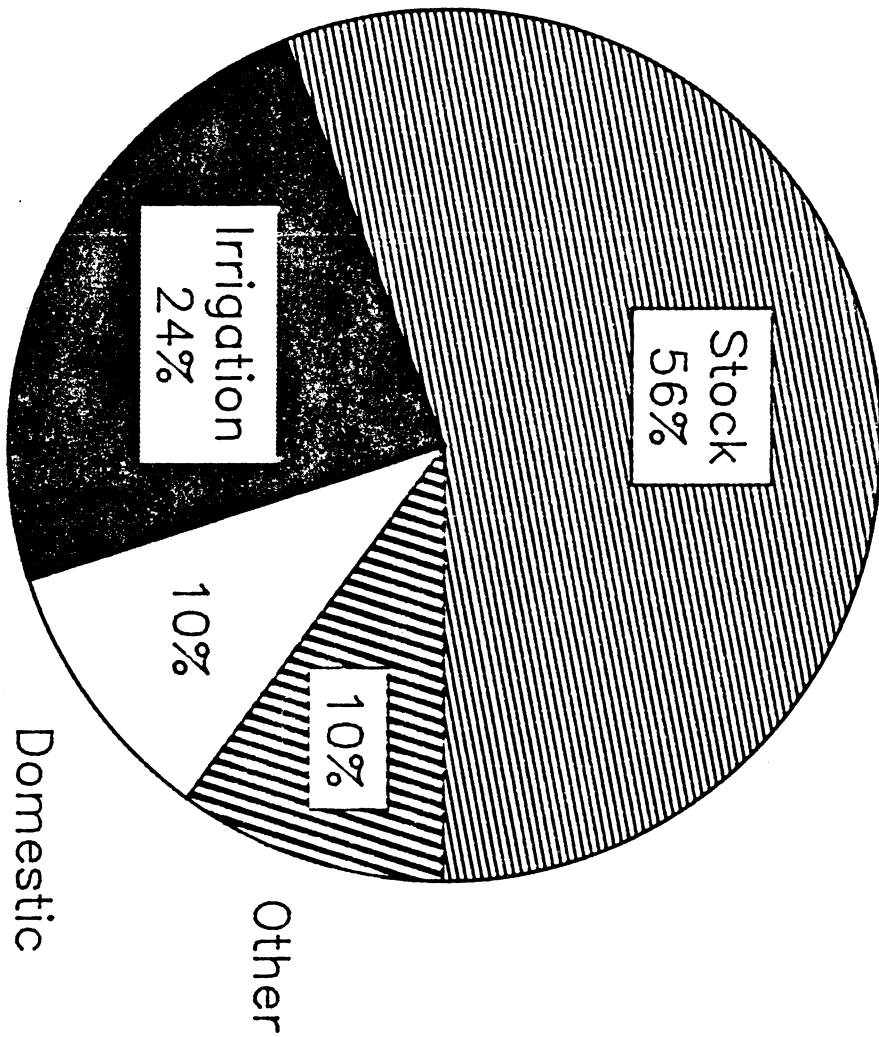
Approximately 56% of the claims were filed between January 1 and April 30. Approximately 45% claims were filed in the month of April and 60,000 claims or 30% were filed in the last week of the filing period. About 2,000 claims were received after April 30 that were postmarked April 30. To collect these filings, the department had a total of 57 people working in the adjudication program by April 30, 1982.

The department had to process and enter into a centralized record system all Statements of Claim received. To do this the department went through a claim check process called "clarification". This process was approved by the water court and implemented in April 1981. It was a process in which staff reviewed the claim with its attachments to make sure it was complete, clear, and interpretable. If problems were discovered, the claimant was contacted. Our goal was to have all claims reviewed, filmed, computerized, and filed in archives by July 11, 1983. Filming was completed in May 1983. Computerizing and filing in archives were completed in June 1983.

Approximately 3,500 water right claims have been filed with the department since the 5:00 p.m. April 30, 1982 Supreme Court

FIGURE I-1

Adjudication Claims Statewide Breakdown By Use



deadline. In addition, 10,302 existing water uses were declared in the two Powder River basins prior to the current claims filing process. As a result, a total of over 216,000 filings for existing water uses are on record with the department for the 85 drainage basins that make up Montana's hydrologic configuration. The number of claims in a basin ranges from 99 to 12,864.

3. Claim Review. Senate Bill 76 process, as encoded in 85-2-243, MCA, requires the department to provide assistance and information as may be required by the water judge. Under this statute the department provides pertinent information and facts to the water courts at the direction of the water judge. The department reviews all claims prior to issuance of a decree as the fulfillment of this requirement.

The department began reviewing claims in the fall of 1982 using a water court approved operations manual, referred to as the Verification Manual. The department "verified" over 80,000 claims. Verification included gathering, examining, and reporting data, facts, and issues pertaining to the claims of existing water rights. Typically, each of nine regional offices verified all claims within an assigned, local basin before proceeding to another basin. The verification methodology and scheduling of basins for department review varied, but was approved by the water judges.

Most of the claims "verified" by the department have been decreed by the water courts in 28 temporary preliminary decrees, 7 preliminary decrees, and 4 final decrees.

4. Stipulation. During the summer and fall of 1985, the Montana Department of Fish, Wildlife and Parks, the United States, and other parties filed original proceedings with the Montana Supreme Court urging the court to take supervisory control of the water rights adjudication process. It was argued that the verification procedures developed by the water court and used by the department to examine claims were seriously flawed. The parties claimed that inequitable treatment and inadequate examination of claims would result in inaccurate decrees, and possibly nullify Montana's adjudication process.

Negotiations were held by the various parties which led to an out-of-court stipulation. The department, although not a party, participated in these discussions. The Stipulation was submitted to the Montana Supreme Court on February 19, 1986. Following oral arguments before the Supreme Court to explain its contents and answer questions, the petitioners agreed to dismiss their complaints with the understanding that the Stipulation would be followed.

In regard to the department, the Stipulation states that the examination of water right claims will be limited to "factual analysis and the identification of issues" and that the "water court will refrain from participating in the verification of claims by DNRC, except the water court upon proper application and for good cause shown, may enjoin DNRC from acting beyond its jurisdiction in

the verification process." It was also stated that the examination procedures and policies will be available to the public.

In addition, the Stipulation required, for basins where temporary preliminary or preliminary decrees have been issued, that the department prepare a report for each decreed basin comparing the verification procedures used with the examination procedures adopted pursuant to the Stipulation. The water court agreed, pending the implementation of the procedural revisions described in the Stipulation which included the adoption of new verification procedures, that it would not issue any further decrees.

5. Rules Adoption. Following the stipulation, the department began implementing its provisions, principally the review and modification of the claims review policy and procedures. The objective was to develop a process of gathering data and identifying issues pertinent to water right claims as an independent agency, thereby assisting the water court in accurately adjudicating the underlying rights.

Toward this end, the question arose whether the claim examination procedures should be adopted by the department under the Montana Administrative Procedures Act (MAPA) or adopted by the water court. The department proceeded with the intent of rule adoption under MAPA. Two orders were issued by the water court during July and August, 1986 stating "that the DNRC shall not take any further action to proceed with an informal process of public review and comment...without the...express authorization of the Montana Water Courts." It further ordered "that any future failure to comply with this courts...Order shall be deemed contempt of court."

An appeal of the water court's orders to the Montana Supreme Court was filed by the department on August 20, 1986. Oral arguments were held January 12, 1987. A decision was issued on March 31, 1987 affirming the water court orders prohibiting the department from rule adoption; however, the Supreme Court declared it would promulgate rules covering the verification of water right claims. The Supreme Court's decision went on to say that nothing in the decision "shall be taken to demean or underestimate the crucial role to be played by DNRC in the adjudication of water right claims." It termed the technical expertise, assistance, and information of the department as "indispensable for the success of the adjudication process."

With the assistance of the water court and the department, the Supreme Court issued a temporary version of the claim examination rules - nearly 100 pages - on July 7, 1987. The Supreme Court, without prior public comment, issued the rules with an effective date of July 15, 1987. The Supreme Court stated that public comment on the operation and effectiveness of the rules could be filed with the Supreme Court until March 15, 1988. The intention was to allow a reasonable interval for operating under the rules to determine if they promote a steady progress to final adjudication. Comments were submitted to the Supreme Court by the department, water court,

United States government, Department of Fish, Wildlife and Parks, Montana Power Company, Washington Water and Power, and the Confederated Salish and Kootenai Tribes. To date, the Supreme Court has not acted on the comments submitted.

On July 13, 1989 the Montana Supreme Court issued an order amending the Water Right Claim Examination Rules based on proposed changes submitted to them by the water court and the department on May 8, 1989. In working with the rules since their adoption on July 15, 1987, areas were recognized where the rules were unclear, activities were minimally productive and limits on the department's activities were not adequately defined. The amendments were to increase the efficiency and speed of examining claims, and enhance the precision and clarity with which the rules describe the examination process. The effective date for implementing the amendments was September 1, 1989. On December 18, 1990, the Montana Supreme Court issued a second order amending the Water Right Claim Examination Rules with an effective date of January 15, 1991.

6. Re-examination. The stipulation required the department to file a report with the water court in those basins where a temporary preliminary or preliminary decree had been issued comparing the previous review procedures with those adopted by the Supreme Court. Based on the report, the water court, either on its own motion, at the request of the department or at the request of an individual, could order the department to re-examine all or a portion of the claims in a decreed basin. This requirement of the stipulation affected 34 decreed basins.

In July, 1987 the water court was advised that the department, in accordance with the stipulation, planned to complete the reports for decreed basins comparing the previous verification procedures to the Supreme Court examination procedures. The department further advised the water court that it believes any subsequent claim re-examination in decreed basins should be conducted prior to claim examination in non-decreed basins. Based on several orders issued in August, 1987, the water court ordered the department to cease preparation of comparison reports except for five basins (41G, 40C, 41C, 43A, and 40K) where review of the claims was eventually completed under the verification procedures. The reports were submitted in September, 1987. Re-examination in the five basins was denied.

On January 4, 1988, the United States filed a motion with the water courts to:

- (1) produce reports comparing the previous verification procedures with the present Water Rights Claims Examination Rules in those basins where temporary preliminary or preliminary decrees have been issued; and

- (2) conduct reverification in those basins for which comparison reports have already been issued.

Grounds for the motion included assertions that (1) many of the claims filed to date are inaccurate and excessive (including claims within basins that have received temporary preliminary and preliminary decrees); (2) the reverification of basins that have been inadequately verified under the old claim examination rules is required by both state law and the McCarran amendment; and (3) the February 1986 stipulation requires preparation of comparison reports for the previously decreed basins.

Similar motions were filed by Washington Water Power and Montana Power Company, and a motion to intervene was filed by the Department of Fish, Wildlife and Parks. The water court held a hearing on these motions March 7, 1988 and issued an order and memorandum concerning the motions on May 10, 1988.

The water court's order denied re-examination in the five basins having comparison reports (basins 41G, 41C, 40C, 40K, and 43A), and took under advisement the motion for comparison reports for those basins where temporary preliminary or preliminary decrees have been issued "to allow the court time to specifically examine each of the many basins with thousands of claims," and to then make specific orders.

The court emphasized that the purpose of the adjudication is "to adjudicate all of Montana's pre-1973 water as soon as possible, as simply as possible and to do it accurately and under all the law applicable," and stated that "we are and will continue to give complete study to each basin as it proceeds through adjudication to its final decree."

7. Consultant's Report. Due to the numerous questions raised about the adjudication program, the 1987 legislature reduced the funding for the program by approximately half. The reasoning for the budget cut was to slow down the adjudication process and allow more time for ironing out difficulties. The program work force was reduced from 37.72 to 20 full-time employees. Seven people were laid off, others were repositioned, and vacant positions were eliminated.

The legislature also allocated \$75,000.00 for an independent study of Montana's general stream adjudication to be administered by the legislative Water Policy Committee. A request for proposal for the study was advertised nationally. From a pool of 15 proposals, the law firm of Saunders, Snyder, Ross, and Dickson from Denver was chosen. The consultant's report, submitted on September 30, 1988 to the Water Policy Committee, recommended that Montana's adjudication process only needed some minor legislative fine tuning. The report says Montana's process is not "so grievously flawed as to require massive legislative overhauls".

As a result of the study, four bills were introduced and passed by the 1989 legislature to help reduce potential conflicts and clarify the previous statutes. In addition, funding for the program was increased allowing an increase from 20 to 27 FTEs.

8. Current Status. The program currently has 19 FTEs of which 13 FTEs are located in the regional offices to conduct claim examination. Presently, the department is focusing its claim examination in areas where chronic water shortages and disputes exist. The extent and limits of examination of water right claims is now set by the Water Right Claim Examination Rules adopted by the Montana Supreme Court.

This operations policy manual, the Water Rights Claims Examination Manual, has been written by the department to implement these rules. The detailed operations manual addresses the day-to-day problems, solutions, procedures, and processing steps required in reviewing claims.

9. Decree Status. The following summarizes the number of claims and basins involved in each stage of the decree process as of April, 1995.

Temporary Preliminary Decrees
35 basins + 2 subbasins
81,972 claims

Preliminary Decrees
7 basins
12,612 claims

Final Decrees
6 basins
15,393 claims
Of these, 10,302 water rights were in the two Powder River basins which were examined by the department prior to the formation of the water courts.

Total Decrees
48 basins + 2 subbasins
109,977 claims

Figure I-2 is a basin status map describing the decreed basins and their stage of the decree process.

Figure I-3, an Adjudication Program Chronology, lists the more important events which have occurred in the adjudication program from 1979 to the present.

FIGURE I-2

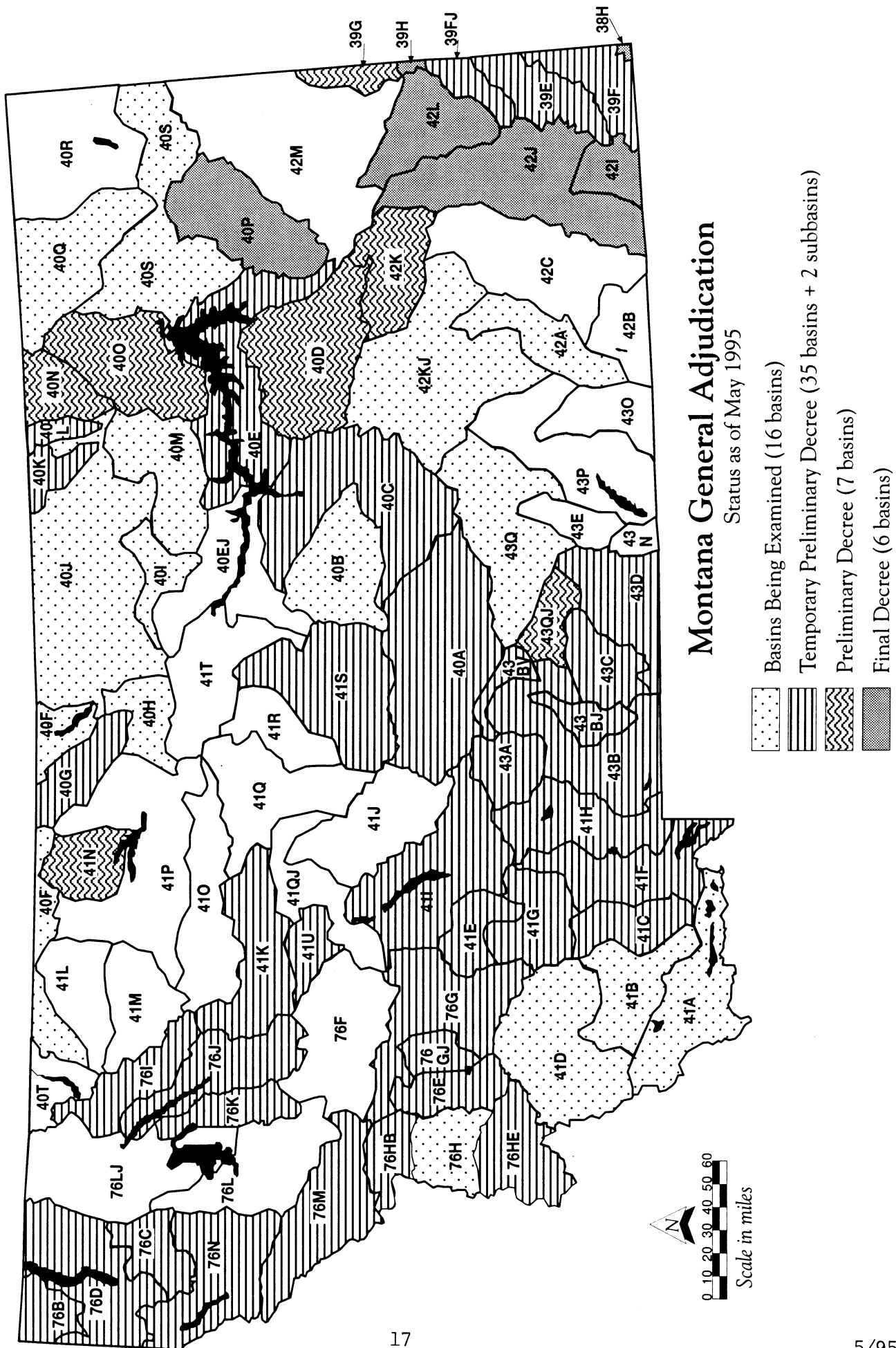


FIGURE I-3

ADJUDICATION PROGRAM CHRONOLOGY

1. May 11, 1979 Senate Bill 76 became effective.
2. May 11, 1979 Claim filing period. Original filing
 through deadline was January 1, 1982. This
 April 30, 1982 deadline was extended by the Montana Supreme
 Court to April 30, 1982.
3. April 30, 1982 Filing deadline.
 200,000+ claims submitted
4. April 30, 1982 Claims verified, decrees issued.
 through Temporary Prel - 27 basins, 54,566 claims
 Nov. 11, 1985 Preliminary - 7 basins, 9,930 claims
 Final - 4 basins, 5,096 claims
 Powder Rvr Final - 2 basins, 10,302 claims
 40 basins 79,894 claims
5. June 18, 1985 Montana Supreme Court rules the State of
 Montana, as owner of the land where water is
 used, is the owner of the water right and not
 the lessee. (Pettibone decision)
6. July 17, 1985 DFWP filed writ of supervisory control
 against the Water Courts with the Montana
 Supreme Court.
 -substantive errors
 -procedural law errors
 -accuracy and validity of decrees
 questioned
7. Fall, 1985 Numerous other parties joined or filed suit
 siding either with or against the Water
 Court.
8. Dec. 2, 1985 Oral arguments were scheduled, but the
 parties requested and were granted a delay to
 negotiate out of court.
9. Dec. 18, 1985 Montana Supreme Court rules the Water Court
 has the authority to adjudicate water right
 claims on all Indian reservations. The court
 further concluded the Water Use Act is
 adequate to adjudicate both Indian and
 federal reserved rights.
10. Feb. 19, 1986 Stipulation signed.
 Helped separate role of DNRC vs Water
 Court. Verification by DNRC shall be
 limited to a factual analysis of water

- right claims for accuracy and completeness and the identification of issues.
11. April 8, 1986 Montana Supreme Court rules the ultimate measure of volume for water right claims in Montana is the amount needed for beneficial use and not the limits set in court decrees.
 12. Spring, 1986 DNRC drafted a set of rules for claim examination, DNRC intended to adopt rules under MAPA.
 13. Summer, 1986 Water Court order issued directing DNRC to re-examine the certain groups of claims in the following basins:
 - Basin 43B - MN and PG claims
 - Basin 76G - MN, FW and PG claims
 - Basin 41K - MN, FW, WI, CM and PG claims
 - Basin 41E - MN, FW, WI, CM and PG claims
 - Basin 41H - MN, FW, CM and PG claims
 14. July 23, 1986 Water Court order issued prohibiting DNRC from adopting rules under MAPA.
 15. August 7, 1986 DNRC issued rules informally for public comment.
 16. August 8, 1986 Water Court order issued that DNRC take no further action on rules without express authorization of the Water Court.
 17. August 20, 1986 DNRC appeals orders.
 18. Sept. 26, 1986 Based on a September 25, 1986 Motion by the DNRC, the Water Court orders the re-examination of Basins 76G, 41K, 41E and 41H stopped. The stay was requested on the grounds re-examination procedures had not yet been adopted as agreed to in the Stipulation.
 19. Jan. 12, 1987 Oral arguments before the state Supreme Court.
 - separation of powers
 - due process concerns
 - conflict of interest if Water Court involved in daily DNRC examination activities
 20. Feb. 3, 1987 Joint Appropriations Subcommittee on Natural Resources cuts 500,000 per year from adjudication program budget.
 21. March 31, 1987 Decision issued.

Affirmed the Water Court's orders.
Declared that Supreme Court would
promulgate rules to cover claim
examination. Directed Water Court and
DNRC to submit draft.

22. April 30, 1987 Draft rules submitted to Supreme Court.
23. July 1, 1987 Effective date of reduced adjudication
program budget. Staff reduced from 37.72 FTE
to 20 FTE for FY88 and FY89 (13 FTE in
regional offices).
24. July 7, 1987 Supreme Court issues examination rules.
Effective date of July 15, 1987. Public
comment can be submitted by March 15, 1988.

Comments to July 15, 1987 version of claim
examination rules were received by the
Supreme Court from the Confederated Salish
and Kootenai Tribes; Dept. of Fish,
Wildlife & Parks; Dept. of Natural
Resources & Conservation; Montana Power
Co.; United States of America; Washington
Water & Power; and the Montana Water Court.

No action has yet been taken on comments.
25. August 19, 1987 Water Court orders the DNRC to report any
substantial differences between the claim
examination procedures and the verification
manual for Basins 43A, 41G, 40K, 40C and 41C.
26. Fall, 1987 Water Right Claim Examination Manual drafted
to provide step-by-step procedures for DNRC
staff to follow in implementing the Supreme
Court rules on a day-to-day basis.
27. Sept. 4, 1987 Report for the five basins (43A, 41G, 40K,
40C and 41C) mentioned in the August 19, 1987
order, are submitted to the Water Court.
28. Oct. 14, 1987 Legislature's Water Policy Committee hires
Denver law firm as consultants to study the
adjudication and submit a report.
29. Oct. 19, 1987 Water Court issues order denying re-
examination of Basin 40C.
30. December, 1987 Claim examination begun in six basins using
the Water Rights Claims Examination Rules.
31. Dec. 11, 1987 Water Court issues order denying re-
examination of Basin 41G.

32. Dec. 17, 1987 Water Court issues order denying re-examination of Basin 40K.
33. January 4, 1988 US Government files a Motion before the Water Court to have re-examination comparison reports prepared on all basins in Temporary Preliminary and Preliminary Decree, and that re-examination be conducted in those basins on which comparison reports had been written, i.e., 40C, 40K, 41C, 41G, and 43A.
34. May 10, 1988 Water Court issues Order and Memorandum denying the US Government Motion for re-examination and takes Motion for comparison reports under advisement.
35. August 3, 1988 Temporary Preliminary Decree issued for Shields River basin (43A).
First post-stipulation decree.
36. Sept. 30, 1988 Consultant's report submitted to Water Policy Committee.
Affirms Montana's adjudication. Suggests legislative "fine-tuning".
37. May 10, 1989 Water Court and DNRC jointly submit proposed revisions to the rules to the state Supreme Court aimed at increasing pace of examination.
38. Spring, 1989 1989 Legislature increases adjudication program budget by \$150,000 per year for FY90 and FY91. Staff increased from 20 FTE to 27 FTE (20 FTE in regional offices).
39. July 13, 1989 Supreme Court issues first Order amending the claim examination rules, with an effective date of September 1, 1989.
40. July 17, 1989 Water Court rules that any claims for existing pre-1973 water rights not filed on or before the April 30, 1982 deadline are forfeited.
41. Sept. 1, 1989 Dept. of Fish, Wildlife and Parks only party to submit comments and objections to the September 1, 1989 version of the claim examination rules. DFWP's comments were overruled by the Supreme Court on November 2, 1989.
42. March 29, 1990 Judge W. W. Lessley dies after serving close to eleven years as the first Chief Water Judge of the Montana Water Court.

43. May, 14, 1990 C. Bruce Loble is appointed Chief Water Judge by the Montana Supreme Court.
44. Dec. 18, 1990 Supreme Court issues second Order amending the claim examination rules, with an effective date of January 15, 1991.
45. May 6, 1992 Montana Supreme Court affirms the July 17, 1989 decision by the Water Court that claims filed after the April 30, 1982 deadline are forfeited.
46. July 1, 1993 Senate Bill 310 becomes effective. The bill provides for the conditional remission of the forfeiture of existing right caused by the failure to comply with the April 30, 1982 deadline. Water right claimants are given one more opportunity to file a water right claim in the general adjudication. The deadline for filing claims is July 1, 1996.
47. July 1, 1993 1993 Legislature reduced adjudication staff from 27 to 23 FTE. (Regional office staff reduced from 20 to 17 FTE and the Helena central office staff decreased from 7 to 6 FTE.)
48. Nov. 1993 Special Legislative session reduced adjudication budget and eliminated four regional office FTE (13 FTE in regional offices). Total program staff reduced from 23 to 19 FTE.
49. Feb. 8 1995 Water Court rules they have the right to call claims [ON MOTION OF THE WATER COURT].
50. April 13 1995 1995 Legislature forms an advisory committee. The chief water judge shall appoint the committee to provide recommendations on methods to improve and expedite the water adjudication process.

II. DEFINITIONS

Unless the context requires otherwise, the following definitions apply in this manual.

"Abstract" means the computer printout of each claim of an existing water right showing the information submitted on the sworn claim, any changes authorized by the water court, remarks noting any obvious factual or legal issues presented by the claim, and other remarks explaining the nature and extent of the claimed water right.

"Acreage" means the number of irrigated acres.

"Adjudication" means the judicial determination of water rights that existed prior to July 1, 1973.

"Amended Claim" means the contents of a submitted claim as altered or changed by the claimant as to any matter contained in the original claim and as allowed by the water court.

"Animal Unit" means one cow and calf pair, three pigs, or five sheep. One horse is 1.5 animal units.

"Appropriate" means to divert, impound, or withdraw a quantity of water for a beneficial use.

"Basin Code" means the respective number/letter combination used to identify each of the 85 basins in Montana (e.g. 43QJ) according to the Atlas of Water Resources of Montana prepared by the Montana Water Resources Board.

"Beneficial Use" means a use of water recognized as beneficial prior to July 1, 1973 and used for the benefit of the appropriator, other persons, or the public and may include but not be limited to agricultural (including stockwater), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power generation, and recreational uses.

"Centralized Record System" means the records of all claims of existing rights, permits, certificates, applications, and other documents filed with the department.

"Change in Appropriation Right" means a change in the place of diversion, place of use, purpose of use, or place of storage of a water right made in accordance with §85-2-402, MCA.

"Claim" means a declaration of an existing right, as defined in §85-2-224, MCA, filed with the department upon order of the Montana Supreme Court.

"Claimant" means any person, according to §85-2-102, MCA, who has filed a statement of claim or is successor in interest to a claimed existing water right.

"Claimant Contact" means communication between the department and a claimant or claimant's authorized representative regarding their claimed water right.

"Clarification" means the process by which elements of a water right are made more complete, clear, concise, and interpretable without changing the intent of the claimed information.

"Climatic Area" means areas defined by differing climatic and geographic conditions containing similar crop consumptive use data as delineated by the United States Department of Agriculture, Soil Conservation Service.

"Dam Height" means the vertical distance from the lowest point of the dam crest to the lowest point on the natural ground along the downstream toe of the dam.

"Decree Abstract" means a summary of a claimed water right printed by a computer that appears as part of a water court issued decree. The decree abstract contains the claimed information, changes authorized by the Water Right Claim Examination Rules or the water court, and water court ordered data, changes and remarks.

"Decreed Right" means a claimed water right previously determined in a judicial decree.

"Department" means the Montana Department of Natural Resources and Conservation.

"Developed Spring" means groundwater if its natural flow is increased by some development at its point of extrusion from the ground, such as simple excavation, cement encasement, or rock cribbing.

"Examination" or "Verification" means the process under these rules of examining, gathering information, and reporting data, facts, and issues pertaining to the claims of existing water rights.

"Existing Water Right" means a right to the use of water which would be protected under Montana law as it existed prior to July 1, 1973.

"Field Investigation" means an on-site inspection, under §85-2-243, MCA, of physical evidence and features relating to the individual elements of a claimed water right.

"Filed Appropriation Right" means a water right which has been filed and recorded in the office of the county clerk and recorder.

"Final Decree" means the final water court determination of existing water rights within a basin or subbasin, as described in §85-2-234, MCA.

"Flow Rate" means the rate at which water has been diverted, impounded or withdrawn from the source for beneficial use.

"Groundwater" means any water that is beneath the ground surface.

"Guideline" means an estimate of reasonable use to be used as the benchmark for initiating further department review or claimant contact. The estimate of reasonable water use is derived from technical data and recommendations of the department and adopted by the water court.

"Historical Irrigation" means irrigation that took place for the first time before July 1, 1973. It may also mean irrigation that does not appear on any available maps or photographs, but which may have taken place before such maps and photographs were compiled.

"Household" means the dwelling, house, or other domestic facilities where a family or social unit lives.

"Implied Claim" means a claim authorized by the water court to be separated and individually identified from multiple rights evident in one or more claims.

"Interior Drainage" means an area in which water drains into a depression from which water only escapes by evapotranspiration or subsurface drainage. The scale varies from a small kettle in a glaciated area to a large playa lake, such as the Great Salt Lake in Utah.

"Irrigation" means the application of water to the land to eliminate the moisture limitation to crop production. (Soil Conservation Service, 1979.)

"Irrigation District" means a statutory district created pursuant to Title 85, Chapter 7, MCA.

"Lake" means a naturally occurring inland body of water.

"Late Claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

"Legal Land Description" means the description given to a parcel of land in terms of, but not limited to, section, township, range, and county.

"Means of Diversion" means the structures, facilities, or methods used to appropriate water from the source of supply.

"Microfilm Record" means a photographic film record on a reduced scale of all paper documents related to a water right.

"Multiple Use" means a single appropriation used for more than one purpose by a single owner.

"Natural Overflow" means the water which results in the flooding of lands adjoining streams during high flow with no man-made diversion involved.

"Natural Subirrigation" means irrigation resulting from a naturally occurring high water table condition that supplies water for crop use.

"Non-consumptive" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in the source conditions.

"Other Uses" means all uses of water for beneficial purposes other than stockwater, domestic, and irrigation uses.

"Owner" means any person, according to §85-2-102, MCA, who has title or interest in water rights or properties.

"Period of Use" means the period in a calendar year when water is used for a specified beneficial use.

"Place of Use" (POU) means the lands, facilities, or sites where water is beneficially used.

"Point of Diversion" (POD) means the location of the initial diversion of water from the source of supply.

"Preliminary Decree" means the preliminary water court determination of existing water rights within a basin or subbasin as described in §85-2-231, MCA, which precedes the final decree.

"Priority Date" means the allocation date associated with a beneficial use of water which determines ranking among water rights on a source, expressed by day, month, and year.

"Regional Office" means one of eight branch offices established by the department to provide water right information and assistance to the public or public agencies.

"Remarks" means statements added to the decree abstract or the department's examination report during claim examination, which explain unique aspects or features of a water right, provide information about a water right, limit or define a water right, or identify factual and legal issues for consideration by the water court.

"Reserved Right" means a water right reserved to fulfill the primary purpose of land withdrawn from the public domain by an act of congress, a treaty, executive order, or explicit direction of congress in federal statutes.

"Reservoir" means a storage facility created by man-made means that impounds water storing it for beneficial use.

"Source" means the specific supply from which water is taken for a beneficial use.

"Spring" (See developed spring and undeveloped spring)

"Subbasin" means a designated area that drains surface water to a common point within a basin.

"Summary Report" means a report sent to the Montana Water Court presenting claimed data and summarizing the department's examination findings for each claim within a basin or subbasin.

"Supplemental Rights" means separate water rights for the same purpose, owned by the same claimant, and used on a common place of use.

"Temporary Preliminary Decree" means a water court decree, prior to the issuance of the preliminary decree, as necessary for the orderly administration of existing water rights pursuant to §85-2-231, MCA.

"Transfer" means a change in ownership of water rights pursuant to §§85-2-421 through 85-2-426, MCA.

"Undeveloped Spring" means surface water if its natural flow is not increased by some development at its point of extrusion from the ground.

"Use Right" means a claimed water right perfected by appropriating and putting water to beneficial use without written notice, filing, or decree.

"Volume" means the amount of water which has been diverted, impounded, or withdrawn from the source over a period of time for beneficial use, usually measured in acre-feet.

"Waste And Seepage" Waste water means the loss of water through the design or operation of an appropriation or water distribution facility. Seepage is the movement of water through a porous soil; its origin could be from another's waste or occurring naturally.

"Water Court" means the water division of the state courts presided over by water judges responsible for adjudicating existing water rights in Montana as provided for in Title 3, Chapter 7, MCA.

"Water Judge" means a judge responsible for adjudicating existing water rights as provided for in Title 3, Chapter 7, Part 2, MCA.

"Water Master" means a person appointed by a water judge to assist in the adjudication of existing water rights as provided for in Title 3, Chapter 7, Part 3, MCA, and Rule 53 of the Montana Rules of Civil Procedure.

"Water Resources Survey" (WRS) means a survey of water resources and water rights in Montana on a county basis by the former State Engineer's Office or Water Resources Board, predecessors of the department.

"Water Spreading" means surface flood irrigation involving the diversion of occasional (flood or runoff) surface water from natural, usually nonperennial, water courses by means of dams, dikes, or ditches, or a combination of these. It differs from conventional irrigation because it is totally dependent on and regulated by the availability of water, not crop needs.

"Well" means any artificial opening or excavation in the ground, however made, by which groundwater is sought or can be obtained or through which it flows under natural pressure or is artificially withdrawn.

III. GENERAL PROCEDURES

Regional office staff spend a considerable amount of time organizing claim files and materials for efficient examination. Several areas must be considered before beginning claim examination in a basin. This chapter identifies some of these areas and provides general guidelines.

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A. PUBLIC MEETINGS

1. Purpose. Public meetings are a method of acquainting the public with the general procedures of the adjudication process or the department's claim examination process. They may also be used for specific purposes such as

- gathering facts and information for accurate claim examination within a basin related to
 - flow rate, volume, and period of use for irrigation that may include the usual and customary method of irrigation, crops grown, and growing season within a basin or subbasin; and
 - flow rate, volume, and period of use for other uses of water within a basin or subbasin; and
- providing the public with information on using the decrees, decree indexes, availability of materials at the regional offices, and the objection process.

2. Planning. Public meetings should be held at a time and place appropriate to the material being presented and convenient to the participants. Two or more public meetings on a single issue may be necessary for larger basins.

Determining the need for a public meeting and the items to be discussed will be a joint effort between the regional office staff and the program manager. The planning process should consider

- persons needed as presenters,
- preferred date and alternatives,
- meeting location (time, town, building, room, adequate seating),
- equipment (public address system, projector and screen, tape recorder, etc.),
- checking for potential conflicts with other meetings or events, and
- checking for possible sponsor (county commissioners, extension agents, etc.).

3. Notification. Preparation of news releases will be coordinated by the program manager. Meetings will be announced using one or more of the following: radio stations, newspapers, or television stations which have general coverage in the appropriate area. The water court and certain other parties may be notified directly. In addition, notices may be posted in various public locations in the area. Suggested locations for notices and people to notify are:

- Regional Office
- Clerk of Court
- Clerk and Recorder

- Library
- SCS
- ASCS
- Forest Service, BLM, BIA, BOR, etc.
- County Commissioners
- County Extension Agent
- Conservation Districts
- Legislators
- Attorneys and consultants active in water rights
- Seed company, fertilizer company, grain terminal, etc.
- Irrigation company, implement supply dealer, etc.
- Farm supply dealer, tire dealer, etc.
- Post Office
- Banks, Production Credit Association, Federal Land Bank
- Chamber of Commerce
- Schools, gymnasiums
- Grocery store

B. STANDARD MEASUREMENTS OF WATER

1. Conversions. The Supreme Court rules have adopted standard water measurements for flow rate and volume to ensure consistency and to comply with §85-2-103, MCA. The following conversions will be used in determining equivalent flow rates and volumes:

- forty (40) statutory or miner's inches (MI) = 1 cubic foot per second (cfs);
- one (1) miner's inch (MI) = 11.22 gallons per minute (gpm);
- one (1) cubic foot per second (cfs) = 448.8 gallons per minute (gpm); and
- one (1) acre-foot (AF) = 325,851 gallons.

For additional information about standard measurements, Figure III-1. For common abbreviations used for water measurement, Exhibit III-1.

2. Reporting Flow Rate And Volume. Generally, flow rates were claimed in cubic feet per second (cfs), miners inches (MI) or gallons per minute (gpm). As claims were originally stored in the computer data base, flow rates in units of miners inches (identified as "MI") were converted by the computer to cubic feet per second (identified as "C").

The department's examination report and decree abstracts will identify units of water measurement only in gpm or cfs in compliance with §85-2-103, MCA.

a. Flow Rate. The standard units for flow rates are as follows:

- Less than one (1) cfs will be converted automatically by the computer into units of gallons per minute.
- Equal to or greater than one (1) cfs will be manually standardized to units of gallons per minute or cubic feet per second to best suit the system, or the customary reference for the means of diversion, area, or claimant. No conversions will be applied by the computer.

Flow rates equal to or greater than one cfs may be converted manually during examination to either gpm or cfs to best suit the system, or the customary reference for the area or claimant. All conversions, whether manual or automatic, will be made using the equivalencies described above.

b. Volume. Volumes will be in units of acre-feet (AF) or gallons (g). All conversions, whether manual or automatic, will be made using the equivalencies described above.

**FIGURE III-1
GENERAL WATER CONVERSION TABLE**

One cubic foot of water equals -----	7.48 gallons
or -----	62.4 pounds
or -----	1,728.0 cubic inches
One cubic foot per second (cfs) equals -----	7.48 gallons per second
or -----	448.83 gallons per minute
or -----	1.0 acre-inch per hour
or -----	0.99 acre-feet per 12 hours
or -----	1.983 acre-feet per day
or -----	724.0 acre-feet per year
or -----	646,315.2 gallons per day
or -----	40.0 Miner's Inches Montana (1 Miner's Inch = 11.22 GPM)
One acre-foot of water equals -----	325,851.0 gallons
or -----	43,560.0 cubic feet, or one foot of water on one acre
One gallon of water equals -----	8.34 pounds
or -----	231.0 cubic inches
or -----	0.134 cubic feet
One gallon per minute equals -----	1,440.0 gallons per day
or -----	0.002 cubic feet per second
100 gallons per minute equals -----	0.442 acre-feet per day
1,000,000 gallons per day equals -----	1.55 cubic feet per second
or -----	694.0 gallons per minute
or -----	3.07 acre-feet per day
or -----	1,121.0 acre-feet per year
1 foot of water pressure equals -----	0.433 pounds per square inch
1 pound per square inch equals -----	2.31 feet of water pressure

C. CENTRALIZED RECORD SYSTEM

A centralized record system for claims is maintained by the department. This system is composed of three parts:

- numbered files of original claim forms and documentation submitted by the claimants along with related materials added by the department and water court;
- a computer record system which is initially the claimed information as clarified by the department;
- a microfiche record of each numbered claim file.

All water right information as claimed can be found in the claim file or microfiche record maintained by the department. The claim files and microfiche records are progressively updated to document each stage of the adjudication process.

1. Changing The Record. The department will not change the claimed elements of a water right in the computer record system except as specified below.

a. Prior To Issuance Of A Decree:

- As specifically ordered or directed in writing by the water court.
- To comply with standard measurement of water (§85-2-103, MCA), changes in appropriation rights (§85-2-402, MCA), and water right transfers (§§85-2-421 through 85-2-426, MCA).
- As specifically allowed and directed by the water right claim examination rules.
- To reflect a claimant's amendments to a claim.

b. After Issuance Of A Decree:

- As specifically ordered or directed in writing by the water court.
- In compliance with changes in appropriation rights (§85-2-402, MCA), and water right transfers (§§85-2-421 through 85-2-426, MCA).
- To correct errors in an owner name or address, such as a change of address.

c. Method. To change an element of a water right in the computer record, an amendment, code sheet, worksheet, review abstract, or decree abstract must be submitted to the processing staff in Helena. No change should ever occur without documenting an explanation in the claim file along with the materials used to process the change.

When a change does not involve an amendment, make the change on an examination worksheet or appropriate abstract. If one of these forms is not available, request one from the records section. Forms requesting changes will be coded (if necessary), keypunched, microfilmed, and placed in the claim file.

When a change involves an amendment, refer to section XI.A. for processing instructions.

2. Public Access. All department records pertaining to the adjudication of water rights are public records and therefore open to inspection by any person as provided in §2-6-102, MCA. Prior to final decree anything in the file is part of a work in progress and may be subject to change.

3. Copies. For parties requesting reproductions of department materials, fees will be charged and collected at rates established by the department. Reproduced materials for which costs will be recovered include, but are not limited to, photocopies, copies from microfilm, copies of microfilm, and computer generated materials.

Any person may obtain a copy of a decree issued by the water court. They are available from the department for a fee of \$20.00 or the cost of printing, whichever is greater, in accordance with §85-2-232(2), MCA. Indexes of decrees may be obtained for a fee of \$12.50 or the cost of printing, whichever is greater.

D. PRE-EXAMINATION OFFICE ORGANIZATION

For the examination process to proceed in an orderly and efficient manner, an organized examination system must be set up in each regional office. Due to differences in physical layout, budget priorities, and personnel, individual regional office organization is left to the regional manager and adjudication specialist.

1. Pre-examination Steps. This section contains a synopsis of organizational work which should be completed prior to examination.

- a. Obtain materials necessary for checking claims.
 - (1) scaled grids and/or planimeter for checking acreage
 - (2) calculators
 - (3) Water Resources Survey books and field forms
 - (4) computer claim indexes by drainage basin
 - (5) mylar
 - (6) department and claimant supplemental document stamps
 - (7) claim folder stamp
- b. Sectionalize aerials.
- c. Develop index of aerials, WRS aerials, orthophotoquads.
- d. Identify basin boundary on topographic maps.
- e. Log in all claims.
- f. Place examination worksheets in folders.
- g. Obtain all district court decrees.
- h. Develop list of invalid Notices of Appropriation.
- i. Develop file of supplemental forms.
 - (1) code sheets - POU, POD, Remark, Reservoir
 - (2) questionnaires (Pump, Reservoir, Other Uses, etc.)
 - (3) interview report form
 - (4) Notice Of Intent To Conduct Field Investigation
 - (5) field investigation report form
 - (6) map and overlay labels
 - (7) associated flags
 - (8) basin correction forms
 - (9) supplemental rights form
 - (10) name/address correction form
 - (11) implied claim form labels
 - (12) amendment forms
 - (13) withdrawal forms
- j. Develop decree indexes for recording documentation.
- k. Complete source name standardization.
- l. Start list of claims with interbasin transfer.

- m. Have readily available to everyone examining claims:
 - (1) basin boundary map
 - (2) climatic area map
 - (3) basin map to plot field investigations
 - (4) interbasin transfer list
 - (5) list of invalid Notices of Appropriation

Microcomputer Diskette Of Forms And Letters. Each regional office has been provided with a microcomputer diskette encoded with example forms and letters. A directory of names and descriptions of the items on the diskette is included on the diskette. Many of the files on the disk have to be modified to fit local conditions.

The diskette also contains some example data base files - use of these files will greatly enhance interoffice consistency. Because the data base programs must have room to expand, they should be moved to other diskettes as necessary. For further information on use of the diskette, consult the regional office program assistant.

2. Claim Organization.

a. Logging Claims. It is essential that the location of claims be known at all times. A record of all incoming and outgoing claims must be maintained by all regional offices and the records section in Helena. This record keeping system must record date and destination for each claim sent or received. The purpose of this system is to guard against misplacing or losing claims, and to help locate the "hard copy" of any claim.

When Helena sends claims to a regional office for a particular basin, the records section will record the date sent and destination. The regional office will record date received for incoming claims. The reverse process will be used when claims are returned from the regional office to Helena. Whenever claims are sent from Helena to a regional office, to the water court, or vice versa, a note will be included stating the basin and total number of claims being sent in each box.

The destination codes for records in Helena, water court, and each regional office are:

Records Section (Helena)	H-1
Water Court	WC
Billings Regional Office	FO-3
Bozeman Regional Office	FO-1
Glasgow Regional Office	FO-7
Havre Regional Office	FO-4
Helena Regional Office	FO-5
Kalispell Regional Office	FO-8
Lewistown Regional Office	FO-6
Missoula Regional Office	FO-9

Claims needed by the water court will normally be sent through Helena for forwarding to the water court. Claims may be forwarded directly to the water court but must be accompanied by a memorandum to the court identifying the date sent, claim numbers, and the office sending the claims. A copy of the memorandum must be sent to the records supervisor. Should water court or department personnel remove a claim from the regional office, the claim must be logged out to that person.

**PLEASE DESIGNATE ONE PERSON IN EACH REGIONAL OFFICE
TO DEAL WITH CLAIM LOGGING**

Claim Log Sheet Index. One method for recording the location of claims is by using a claim log sheet index. Exhibit III-2 is an example of this index. The index lists all claims in the basin in numerical order. A copy of this index will be supplied to the regional office at the beginning of a basin claim examination. Extra copies of this index may be requested when staff of more than one regional office examine claims in a basin.

Computer Data Base. An alternative for recording the location of claims in the Claim Log Sheet Index is to establish a data base on the regional office microcomputer. A diskette can be supplied by the records section supervisor containing all the claim numbers for a basin or subbasin. In establishing the data base, the following categories are suggested.

- Claim ID number
- Claim location
- Date claim sent/received
- Worksheet location
- Date WS sent/received
- WS attachments
- 1st review abstract location
- Date 1st RA sent/received
- 1st RA attachments
- 2nd Review Abstract location
- Date 2nd RA sent/received
- 2nd RA attachments
- 3rd Review Abstract location
- Date 3rd RA sent/received
- 3rd RA attachments
- Comments

There may be other categories which a particular regional office may find useful such as:

- Type of Claim
- Subbasin
- Examiner
- Claims within Indian reservation

Whenever claims, worksheets, or review abstracts are sent from the regional office, a printout sorted numerically by claim number

should be included with the sent materials. It would be helpful if the printout also included the date sent and number of attachments for each claim.

b. Claim Storage. Develop a filing system to organize claim files in a way that will allow easy location of the claim files through all stages of the examination process. Following is a recommended system for dividing drawers/boxes into specific categories to allow for easier access and location of claim files.

- Unexamined Claims. Claims for a basin are sent from Helena to the regional office in numerical order in labeled file folders. These claims should be stored numerically prior to being pulled for examination.
- Examination Completed. Claims organized numerically where examination has been completed but the examination materials have not been sent to the records section in Helena for processing.
- Examination Worksheet/Review Abstracts Out. Claims where completed examination materials have been sent to the records section in Helena for processing. These claims should be organized numerically and will include:
 - i) Review Abstracts Not Returned
 - ii) Review Abstracts Returned - Not Checked
 - iii) Review Abstract Sent For Further Coding
- Examined And Reviewed. Claims organized numerically where all examination and review abstract work and processing has been completed. These claims require no further action prior to the issuance of the department's examination report.

Action Pending. Claims being examined which need additional work. These claims should be sorted separately, either in a designated area, or at each examiners desk. Since action pending claims may be comprised of a variety of pending issues, they should be organized alphabetically by owner name. The action pending file may be comprised of a variety of pending issues such as:

- Claimant Contact. Preliminary review of claims where a response from or interview with the claimant is pending.
- Field Investigation. Claims where a scheduled field investigation is pending.
- Program Manager. Claims to be sent to program manager for review or have been returned but not finally processed.

- Water Court Assistance. Claims to be sent to the water court for review (generally for possible implied claims) or have been returned but not finally processed.

c. Computer Indexes Of Claims. Five computer indexes (1-5 below) will be generated for each drainage basin to cross reference claims during claim examination. Other indexes (6 and 7) exist but will be printed only at the request of the regional offices. If any of these indexes need to be sorted differently, or if other indexes are needed for specific purposes, contact the records section supervisor.

<u>Indexes</u>	<u>Computer Report Name</u>
(1) Owner	SAIXOW
(2) Source	SAIXSC
(3) POD	SAIXPD
(4) Priority Date	SAIXPR
(5) Numerical	SAIXNM
(6) Uses	SAUSES
IR	
DM	
ST	
OT	
(7) Reservoir (Volume > 15AF)	SARES15

Put indexes into binders with labeled tabs for easy cross referencing.

d. Claim Folder Stamp. A stamp will be provided to each regional office for labeling the front of each claim folder with a checklist. Claim folders may be stamped prior to examining claims. The checklist on the front of the claim folder reduces confusion as to whether a claim has been completely examined. Its format is:

_____	Claimant Contact
_____	Documentation Recorded
_____	POU Recorded
_____	Claim Examined

3. Stamp To Identify Supplemental Forms. Two different supplemental document stamps will be kept in each regional office to identify documents added to the claim file during claim examination. The purpose of these stamps is to differentiate between documents added by the reviewer and the claimant.

a. DNRC Supplemental Document Stamp. Stamp any supplemental forms, maps, documents, worksheets, etc. added to the file by the reviewer which might be confused with paperwork

submitted by the claimant with the DNRC supplemental document stamp. Every code sheet used by the reviewer must be identified as a DNRC supplemental document. Its format is:

DNRC Supplemental Document Claim # _____
--

b. Claimant Supplemental Document Stamp. Stamp any documents, amendments, maps, letters, etc., received from the claimant or the claimant's representative after receipt of the original claim with the CLAIMANT supplemental document stamp. Some documents may have been added to the claim file after 4/30/82 without being stamped. If so, stamp them at this time. The stamp's format is:

CLAIMANT Supplemental Document Claim # _____
--

4. District Court Decrees. Obtain complete copies of district court decrees in a basin as needed or at one time prior to examining a basin. The decree index (compiled at time of Water Resources Survey) may be a sufficient listing of the decrees.

It is suggested that any water right decrees entered after the decree index was compiled be obtained, along with all decreed supplements (petitions) to appropriate water from decreed streams after the initial decrees were issued. The obtained decrees should be indexed for easy cross reference.

5. Decree Index. A record of the documentation that accompanies a claim will be maintained for decreed rights. The purpose of this record keeping system is to check for the possibility of claims exceeding the original amount of water appropriated. See Irrigation: Flow Rate, Recording Documentation.

Copies of the Water Resources Survey Decree Indexes for sources in a basin should be put in a binder. Since these indexes are not complete or up to date, the form shown as Exhibit III-3 should be in the front of the Decree Index.

To make this index more usable, photocopy it onto 8½ x 14" paper to provide extra room for recording documentation. If space becomes limited for recording documentation, use additional blank pages or Exhibit III-3.

6. Basin Files. A file should be set up for each basin in the regional office area for information regarding those basins;

e.g., the interbasin transfer list for basin A should be included in basin B file.

Break each file into subparts, as necessary, such as:

- general basin information
- log of late claims
- review information for decree
- water court notices and findings
- review for objections
- objections
- objections list
- reports to legal staff
- reports to water court
- log of field investigations conducted in basin during examination

A basin file organized like this retains all pertinent objection materials, report copies, lists of potential problems, etc. in easily found categories.

Each basin file should contain a synopsis of examination progress. Exhibit III-4 is a suggested format. Knowing dates at various stages of the examination process is useful for planning, reports, etc.

7. Aerial Photographs.

a. Sectionalizing Procedure.

Materials. The following is a suggested list of materials necessary to sectionalize aerial photographs.

- orthophotoquads with land lines
- USGS topographic maps
- GLO plats (General Land Office)
- proportional dividers and regular dividers
- straight edge or ruler
- red colored pencils or pens
- gum eraser or solvent
- 2" x 4" adhesive labels
- 4" grid and other necessary grids
- rapidograph marking pens and ink

Procedure. Sectionalizing is a process that requires locating section corners on a known data source, such as a topographic map or orthophotoquad, and transferring them onto aerial photographs.

Aerials should be sectionalized in numerical order (exposure number) within each roll number. By sectionalizing aerials in numerical order, five to six section corners of one aerial will overlap on the next aerial. Overlapping section corners can be easily transferred and are a good starting point when beginning a new aerial.

Orthophotoquads with land lines should be used as the data source for determining known section corner locations. If an orthophotoquad is not available, use topographic maps and GLO's, or ASCS soil survey aerial photos that have already been sectionalized.

When orthophotoquads are used, visual interpretation between the orthophotoquad and aerial is the best method for locating section corners. Proportional dividers should be used to approximately locate each section corner. Due to the different percent distortion of the two maps, proportional dividers will not be totally accurate. A four-inch grid may be helpful in approximating section corners once one of the four corners has been determined.

The outer perimeter of the aerial photograph should generally not be sectionalized due to a high percent of distortion. Mountainous country containing no apparent irrigable land should only be sectionalized as needed, or if section corners exist on the orthophotoquad.

Tracts of unsurveyed terrain appear on topographic maps and orthophotoquads as areas with no land lines. Corresponding areas on the aerial photographs can be left unsectionalized.

Section corners should be drawn on the aerial photographs in the same location and configuration indicated on the orthophotoquad or topographic map. A red pencil and straight edge may be used for drawing section corners. For a permanent record, the section corners should be inked using a rapidograph marking pen.

The section number should be written in the center of each section on the aerial photo. Major streams, creeks, rivers, lakes, and reservoirs should be labeled according to the standardized source name list. It is suggested that this labeling be done in red pencil or ink. Care should be taken that important features on the aerial photograph are not obscured.

The name of the orthophotoquad or USGS topographic map used to sectionalize the aerial may be printed at the top of the aerial for easy cross reference. The adjacent photo numbers may be placed on the sides of the photo for easy reference.

A 2" x 4" adhesive label may be made for each aerial photograph listing the township, range, and sections for each county on the photograph. Place it in the upper right hand corner under the photo number. An example label is:

T4S	R2E	MA
	Section 34, 35, 36	
T5S	R2E	MA
	Section 1, 2, 3, 4, 9, 10, 11,	
	12, 13, 14, 15, 16	

Make a label for each county appearing on an aerial photograph. It is suggested that the labels be printed in black ink with a rapidograph pen, or typed.

b. Aerial Photograph Storage. Store aerial photographs in groups by roll number, county, or basin. See Exhibit III-5. The aerials within each group (e.g., roll number) should then be kept in numerical order by exposure number.

An aerial photograph's clarity can be diminished or marred by abrasion and friction. Storing photos vertically, e.g., hanging in a Plan Hold cabinet, reduces this type of wear.

c. Aerial Photograph Indexes. Develop aerial photograph indexes so photographs can be quickly and easily retrieved. The index should indicate the preferred photo for mapping a POU when sections are covered by more than one photo.

The following are options presently used in regional offices.

- A book-like index may be organized by township, range, and section, using forms shown in Exhibit III-6. Each section in a township has the corresponding photo numbers indicated. The indexes for the regional office area can be arranged by county or basin within one book or as separate books. This index shows when more than one aerial exists of the parcel being examined. Due to the potential difference in clarity between photographs, it could be important to know that several photos cover the same area.
- A map of the basin (BLM or Forest Service map) can be used on which the coverage of each aerial is identified and labeled. This index gives a pictorial view of the coverage of a parcel being examined.

Orthophotoquads may also be indexed by these methods. Index orthophotoquads by name. USGS Quadrangle Map indexes can easily be converted for use as orthophotoquad indexes.

d. Ordering Aerial Photographs. Send requests for aerial photographs to the program manager. The request should list the needed photographs by county, and then by ascending roll and exposure number. The request should also contain a statement justifying the need for the photographs. The photographs ordered will be 24" X 24" (1 inch = 1320 ft.), unless stated otherwise in the request.

When putting the request together, normally order only every other photograph in the flight line. Exceptions might be around the basin periphery where two photographs in sequence may be necessary for complete coverage.

Exhibit III-7 lists available flight years for each county in Montana. For each flight year, the number of indexes is listed. These indexes, which are used for ordering photographs, are available in either hard copy or microfiche. If the indexes are not available at the regional office, they may be ordered. It is suggested checking with the records section supervisor or local ASCS office to use their indexes if available.

A pictorial view of the orthophotoquad mapping status for Montana is shown as Exhibit III-8. If orthophotoquads with land lines are available, they should also be ordered to assist in sectionizing aerial photographs.

E. WATER COURT CORRESPONDENCE

Correspondence from the regional offices to the water court is an every day occurrence. Usually this correspondence is in the form of responses to requests made by the water court or requests from the department for water court assistance.

With the exception of the Witness Identification Memorandum and the Late Claim Notification Memorandum discussed below, all written correspondence to the water court will be reviewed by the Helena central office for quality, content, and consistency. This procedure assures assistance to the water court is consistent and serves as a mechanism for keeping staff in Helena informed of developments and issues at the regional office. Further, it allows a record of orders and requests for assistance to be maintained.

If a deadline is established by the water court, a draft of the document should be sent to Helena in advance so that sufficient review is possible. E-mail is the recommended method for sending drafts to Helena. Once the document is finalized, attach a "Do Not Stamp Received" flag and route it to Helena. In situations where the water court request requires an immediate response, send only a copy of the final document to Helena.

After the document has been reviewed, the original or copy will be given to the records section for filming. The front page of the document will be copied and sent to the regional office with a short 'memo' confirming approval and filming. The original will be forwarded to the water court.

Throughout the manual, the different procedures for water court correspondence are discussed. Described below are the primary areas where correspondence is sent to the water court.

1. Witness Notification Memorandums. Water court orders received directly from the water court are to be photocopied and mailed to the Helena central office. If the water court has already sent the central office a copy, this step is not necessary. If the order requires notification of the name and phone number of the department's witness who will be participating in the status conference, hearing or prehearing conference, a response memorandum should be prepared (See Figure III-2). Send the original response to the water court at least three working days prior to the deadline set in the order. If the order requests the department to notify all other parties, send those individuals a copy of the response memorandum. In addition, a copy of the memorandum should be sent to the Helena central office.

2. Field Investigations. See "Examination Materials and Procedures: Field Investigations".

3. Mis-Basined Claims. See "Claim Examination: Point of Diversion".

FIGURE III-2
WITNESS IDENTIFICATION MEMO
(Regional Office Letterhead)

TO: Kathryn Lambert, Water Master
Montana Water Court

FROM: Jim Gilman, Water Resources Specialist

DATE: May 1, 1991

SUBJECT: Case No. 41G-84

CLAIMANT(S): Lombardi Ranches, Inc.

The appropriate person to assist the Water Court in the above mentioned case is Kathy Arndt, Water Resources Specialist in the Helena Water Resources Regional Office. She will be available on the appointed date and time at the [*] Helena Regional Office, phone number: 444-6695.

cc: (other parties)

[*] If the hearing or conference is to be held in person at some location, use the following format at this point. (e.g. Whitehall Public School, Whitehall, Montana)

4. Implied Claims. See "Special Provisions: Implied Claims".

5. Late Claims. For late claims received in a decreed basin, send a late claim notification memorandum (Figure XI-4) directly to the water court. Place a copy of the memorandum in the claim file. For additional late claim correspondence, see "Special Provisions: Late Claims".

6. Post-Decree Revisions. See "(Temporary) Preliminary Decree: Post-Decree Revisions".

IV. EXAMINATION MATERIALS AND PROCEDURES

This chapter describes how facts, data, and issues obtained through the examination process will be retained and properly stored in the computer. Various techniques for contacting claimants to discuss issues and obtain data are discussed.

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A. PULLING CLAIMS FOR REVIEW

The method of pulling claims for examination is up to each regional office. However, use the following criteria in deciding methodology: (1) all claims belonging to one ownership should be handled by only one examiner; (2) a claimant should be contacted by only one examiner, and as few times as possible; and (3) office personnel should not have to wait for the use of data sources.

The following is a suggested method for pulling claims which will allow for efficient use of aerial photographs and other data sources. In addition owner names and addresses, source names, points of diversion, and places of use will be easier to recognize, as well as supplemental rights and multiple use of the same right, as the reviewer becomes familiar with the local area.

- Divide the basin among the staff:
 - (1) by watershed or drainage, or
 - (2) geographically, halves, thirds, etc. For instance, one starts at the south end of a basin and proceeds north; while another starts in the middle and proceeds north.
- Review all claims of one ownership as a group. Use the POU or source index along with the owner index to pull claims.

In addition to the suggested methods for pulling claims, there are other factors which could alter the manner in which claims are pulled for review.

- State and federal agency claims should be reviewed at the beginning of basin examination since responses from them, due to their structure, may take considerable time.
- Examination of complex claims (e.g. irrigation districts, power generation, etc.) may be more extensive and time consuming. Such claims usually represent the larger and more complex uses in a basin. Again, these types of claims should be reviewed at the beginning of basin examination.
- At the beginning of basin examination, an index of all reservoirs greater than 15 AF will be sent to the regional office. Send State Lands a copy of the index listing their claims; mailing labels (generated with index); and, for each claim involved, a questionnaire, and a copy of the map submitted with the claim. Also, a copy of the claim attached to the questionnaire might be useful. State Lands will forward the questionnaires to the lessees with a cover letter requesting them to return the completed questionnaire to the regional office. State

Lands will provide a list to the regional office of the lessee's name, address and telephone number for each water right involved so any additional follow-up or questions can be directed to the lessee.

- Review of "Other Uses" claims should be timed to coincide with the summer field season in case field investigations are required.

Either as claims are pulled or after they are examined, record the progress by highlighting the claim numbers in the numerical index. This serves as a check that a basin has been totally examined. Depending upon individual regional office methods, other indexes may also be marked.

Once the claims have been pulled, gather the data sources (aerial photographs, topographic maps, etc.) necessary to examine the claims.

B. DNRC EXAMINATION WORKSHEET

The examination worksheet is an abstract of the clarified claimed information and a checklist of items to be examined. It will be used to evaluate the elements of a claim and documents the reviewer's analysis. An example of the worksheet is shown as Figure IV-1.

Examination worksheets will be supplied by the records section in Helena. There must be one worksheet for each claim in a basin. As updates (transfers, changes, etc.) are made to the claim, new worksheets will be sent for the claim file. All worksheets showing work by the reviewer or updates to the data base will be retained in the claim file.

1. Worksheet Format. Each element on the worksheet has two separate sections.

a. Claimed Information. The boldfaced, uppercase type is the clarified claim information as entered into the department's computer data base. Changes, corrections, or amendments of this data may only be made as authorized by the Supreme Court Claims Examination Rules and as directed by this manual.

b. Examination Section. The lowercase type under each element is the examination section to be used by the reviewer for that element. The examination section serves several functions: first, as a reminder to examine each element of the claim; second, to cite the authority for changes; third, as a record of remarks added during the examination; and fourth, for comments on each element. Comments will not appear in the decree or examination report, only coded remarks will.

2. Changing Claimed Information. Changes, corrections, and amendments are made on the worksheet by drawing a line through the item to be changed and writing the new information above or next to the changed item. All changes should be legible, printed, and in ink. The color of ink used should be one that contrasts well with the worksheet, such as red, green or purple. **Never** "white out" any of the computer printed items on the worksheet - just cross these out. The old value helps the coding staff make correct changes to claimed information. If a crossed out printed item is in fact OK, write "OK" next to it and the coding staff will not change it.

Avoid fine point pens as the width of the writing must be wide enough for filming. It is important that changes, comments, etc., stand out clearly for coding, microfilming, or photocopying. Any changes, corrections, or amendments made will be coded, keypunched, and updated in the computer data base by the records section in Helena.

Asterisks And Checkmarks. A system of asterisks and checkmarks will be used to flag changes made on the examination worksheet that are to be entered into the data base. All changes must be flagged.

07/27/93

D.N.R.C.

41B -W-194143-00

EXAMINATION WORKSHEET

 coding
 WATER RIGHT NUMBER 41B -W-194143-00

____ | OWNERS: CHRISTIANSEN TED A
 1850 E BENCH RD
 DILLON MT 59725
 CHRISTIANSEN MARGERY I
 1850 E BENCH RD
 DILLON MT 59725

____ok ____amended ____rule 2.II. ____DNRC error ____issue
 comments: _____

____ | PURPOSE: IRRIGATION
 IRRIGATION TYPE: SPRINKLER

____ok ____amended ____rule 2.I. ____DNRC error ____issue
 comments: _____

____ | SOURCE: SPRING CREEK

____ok ____amended ____rule 2.VI. ____DNRC error ____issue
 data source: USGS topo map _____
 WR survey _____ others _____
 comments: _____

____ SOURCE TYPE: SURFACE

____ok ____not ok comments: _____

____ | POINTS OF DIVERSION AND MEANS OF DIVERSION:

	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY	MEANS	TRIB
DV01				NESE	23	06S	07W	MA	PM	

____ok ____amended ____rule 2.III. ____DNRC error ____issue
 ____additional PODS: see attached code sheets/amendment form
 named ditch: ____yes (add CX remarks) ____no
 comments: _____

____ basin code: 41B

____ok ____not ok interbasin transfer with basin _____
 comments: _____

____ RESERVOIR:

	ON/OFF/R	QTR	SEC	SEC	TWP	RGE	CNTY
RS01	ONSTREAM		NESE	23	06S	07W	MA

RESERVOIR/LAKE NAME: _____

RESERVOIR DATA: CAPACITY _____ DAM HT _____ SURFACE AREA _____

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DNRC EXAMINATION WORKSHEET CONT.

41B -W-194143-00

☐ ok ☐ amended ☐ rule 2.V. ☐ DNRC error ☐ issue
 comments: _____

____| PRIORITY DATE: APR 15, 1872

☐ ok ☐ amended ☐ rule 2.VIII. ☐ DNRC error ☐ issue
 comments: _____

____| TYPE OF RIGHT: DECREEED

☐ ok ☐ amended ☐ rule 2.VIII. ☐ DNRC error ☐ issue
 comments: _____

____| FLOW RATE: 0.00

☐ ok ☐ amended ☐ rule 2.IX. ☐ DNRC error ☐ issue
☐ apply standard
 comments: _____

____| VOLUME: 640.00 acre-feet per year
 (comparison stat: 4.00 AF/AC feasible vol. = 0.00 AF)

☐ ok ☐ amended ☐ rule 2.X. ☐ DNRC error ☐ issue
 CLIMATIC AREA: 4
☐ ok ☐ not ok
 comments: _____

____| PERIOD OF USE: APR 15 TO NOV 4 (computer array: 000499999910)

☐ ok ☐ amended ☐ rule 2.XI. ☐ DNRC error ☐ issue
 comments: _____

____| MAXIMUM ACRES: 160.00

☐ ok ☐ amended ☐ rule 2.VII. ☐ DNRC error ☐ issue
 comments: _____

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DNRC EXAMINATION WORKSHEET CONT.

41B -W-194143-00

PLACE OF USE FOR IRRIGATION:

IR01

(claimant contact points: 176.8 - 143.2 percentage = 10.5)

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	40.00				E2NE	23	06S	07W	MA
002	120.00				NW	24	06S	07W	MA
TOTAL	160.00								

☐ ok ☐ amended ☐ rule 2.VII. ☐ DNRC error ☐ issue
☐ additional pou parcels: see attached code sheets/amendment form
 comments: _____

data source # 1: _____ date: _____

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	_____				E2NE	23	06S	07W	MA
002	_____				NW	24	06S	07W	MA
Total	_____								

☐ See attached examination worksheet p.o.u. addendum
 comments: _____

data source # 2: _____ date: _____

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	_____				E2NE	23	06S	07W	MA
002	_____				NW	24	06S	07W	MA
Total	_____								

☐ See attached examination worksheet p.o.u. addendum
 comments: _____

SUPPLEMENTAL: ☐ yes (add supplemental rights addendum) ☐ no

MULTIPLE USE: ☐ yes (add MU remark) ☐ no

EXISTING REMARKS IN DATABASE: ☐ ok ☐ not ok

FR01 ALL /SEE DECREE

PE01 SEE DECREE

fee paid: \$0.00 ☐ ok ☐ not ok
 claim received: 4/08/82 ☐ ok ☐ not ok

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DNRC EXAMINATION WORKSHEET CONT.

41B -W-194143-00

questionnaires: type _____ date sent _____ completed __yes__no
telephone contact: date _____ phone #: _____
ter contact: date _____
interview: date _____
ownership check: date _____
field investigation: date _____ approval: _____
water court contact: date _____
General Comments: _____

Examined by: _____ date _____
Coding Sheets: ___RMRK ___RSRV ___POU ___DVRS ___OWNR ___AMEND ___SUPP

Coded by: _____ Date _____

Whenever an element is changed so that the decree abstract will differ from the claim form, amendment, or addendum, place an asterisk between the brackets and a checkmark in the left margin of the worksheet next to the heading for the element being changed. The asterisk will be added to the computer data base by the coders and the checkmark alerts them to a change in that particular element. The asterisk will appear on the decree abstract to indicate to the claimant that a change has been made.

Example: ✓ |*| PURPOSE: ~~DOMESTIC~~ IRRIGATION

Whenever a change is made to the worksheet that requires coding to add, amend or correct claimed data, use a checkmark to alert the coders. Place the checkmark in the left margin of the worksheet next to the item being changed.

Example: ✓ CLIMATIC AREA: _____

Changes made by amendments do not need an asterisk because an amendment is claimed information, i.e., the amendment is the new claim. Changes to climatic area code, households, maximum reservoir capacity, or certain means of diversion codes (see "Claim Examination: Means of Diversion") do not require asterisks.

"KEEP". The KEEP flag is used with flow rate and volume values. It is a message to the computer to retain the attached value and to suppress any preprogrammed remarks, e.g., flow rate reduction remark. The KEEP flag is applied by writing "KEEP" on the examination worksheet next to the flow rate or volume figure. Procedures found in later sections will describe when KEEP flags should be used.

3. Documenting Examination. This worksheet will become part of the public record and subject to scrutiny by judges, water masters, claimants, objectors, and attorneys. The logic and reasoning for any change to a claimed element must be clearly documented on the worksheet.

An area is provided under each element on the worksheet for documenting the examination. The primary parts are as follows.

- ok: Check "ok" only if the examination finds an element appears correct as printed on the worksheet. An element is not "ok" for many reasons, such as data entry errors, clarification errors, claimant clerical errors, by being outside of the guidelines or having unresolved issues.
- amended: Check "amended" if the claimed information was amended by the claimant either unsolicited or through claimant contact.
- rule #.###.: Check "rule" if a change, e.g., clarification or application of a standard, is made under

the authority of the cited Supreme Court Water Right Claims Examination Rule. This includes changes made upon instructions from the claimant.

- DNRC error: Check "DNRC error" if a change is made because of a previous clarification, coding, or keypunching error.
- issue: Check "issue" if the claimed information has some problem, unresolved during examination, which will be reported to the water courts in an issue remark.
- comments: "Comments" are explanations of the reviewer's analysis of an element, such as the source of data used to make a change. Make them detailed and complete to be understandable to anyone reading the file. If the comments do not fit on the worksheet, add and refer to additional sheets. Do not write on the back of the worksheet. This line may also be used to document the remark codes of any remarks completed on code sheets for the particular element.

The claim file serves as the repository of all claimed information and other materials related to the department's examination. Add copies to the claim file of all written correspondence sent or received by the department pertaining to a claim (including unsolicited items). All correspondence received by the department must be stamped with the date received.

4. Examination Addendum. Additional information may be necessary to fully and accurately identify a claimed right. Code sheets are used to add information to a claim which could not be added directly to the worksheet itself. Code sheets will be used anytime a POU parcel, POD, owner, reservoir, or remark is included in addition to those found on the worksheet. Code sheets added during examination of a claim will become a permanent part of the claim file.

At the end of the worksheet are lines labeled:

Coding Sheets: RMRK RSRV POU DVRS OWNR AMEND SUPP

If code sheets (POD, reservoir, POU, remark, owner) were added during examination, indicate the number of code sheets (not the number of records per code sheet) in the appropriate blank(s). This tells the coding staff how many code sheets should be accompanying the worksheet.

5. Identification Codes. Code letters and code numbers are used to enter data from a claim into the computer. In a few areas the identification codes appear on the worksheet. Knowing the identification codes (Exhibit IV-3) will help when checking for errors in areas where the codes are used.

6. Marking Original Claims. NO comments, changes, or corrections may be made to the original clarified claim, map, or documentation during the examination process. For potential courtroom purposes, it is important that the claim and attachments be the same as when submitted by the claimant.

7. Verification Abstracts. Worksheets may be found in the claim file which were used for documenting claim review prior to the development of the examination worksheet. The following are guidelines on whether or not these materials should be saved in the claim file and microfilmed.

- Verification abstracts which are not signed or dated and do not contain relevant claim review information should be discarded.
- Signed and dated verification abstracts which contain no relevant claim review information should be "Xed" with a highlighter, preferably in a color that does not block writing. Such abstracts will not be microfilmed but will be retained in the claim file for documentation.
- Verification abstracts which contain relevant claim review information, e.g., claimant contact notes, should be retained and sent in with the examination worksheets to be microfilmed.
- Code sheets completed during verification should be "Xed" with a highlighter, preferably in a color that does not block writing. Such code sheets will not be microfilmed but will be retained in the claim file for documentation. Exceptions are code sheets that can be used in the claim examination. These should not be "Xed" but should be sent in as part of the examination materials.

It is not necessary to transcribe verification information onto examination worksheets. Only information that requires coding, e.g., a changed POD legal, should be transcribed. When verification changes are used, they must meet the review criteria and requirements of the examination manual, meaning an amendment would be necessary for some situations. If the verification abstract contains claimant contact information or other relevant review data, refer to it on the examination worksheet.

By following the above procedures, some verification abstracts (including code sheets) will be saved, and others discarded. The majority of those saved will probably not be microfilmed but will remain in the claim file to document our past work efforts.

C. CLARIFICATION

Clarification means the process by which certain specific elements of a water right are made more complete, clear, concise, and interpretable without changing the intent of the claimed information.

With so many thousands of claims being filed by claimants inexperienced in such matters, many may have been confused about how to complete the claim forms. This undoubtedly led to clerical errors and inconsistencies in the claims. Clarification is a tool for the department to use in editing out these errors in claims. The department is also allowed to perform other actions categorized under clarification which are intended to provide consistency of identification in the centralized record system.

Clarification involves checking claimed information and comparing it to other information in the claim file, other water rights claims filed by the same owner, or other data sources. Many clarification changes may be made without contacting or notifying the claimant. The claimant must be contacted, however, whenever a resolution is not clearly indicated in the claimed information or whenever the change is not clearly one authorized as clarification under the Supreme Court rules.

In addition, changes to claimed information cannot be made as clarification under the following circumstances.

- An adjustment by a claimant to a claim not presently being examined.
- An adjustment by a claimant based on information provided by a non-owner (e.g., tenant, ranch manager, Forest Service District employee)
- An adjustment to flow rate, volume, priority date, or acres.

Clarification of flow rate, volume, priority date, or acres can still occur but if any of these elements are changed to something different from that in the claim file, an amendment should be used. Other elements may be changed as clarification changes.

1. Authorized Clarification. The Supreme Court Water Right Claims Examination Rules (see Rule 6.II.) authorize the department to perform three classes of clarification.

Standardization And Consistency. The following clarification changes may be made without claimant contact.

- Owner Name and Address. The claimant's name and address can be changed to reflect current and consistent information.
- Purpose. The purpose of a water right can be changed to identify similar purposes consistently.

- Source. The claimed source name can be changed for consistency, to reflect the source name designated by the USGS, WRS, or colloquial names, in this order of preference.
- POD. The POD claimed legal land descriptions can be changed to achieve the nearest reasonable and concise legal land description or to identify identical PODs consistently.
- POU. The POU claimed legal land description can be changed to achieve the nearest reasonable and concise legal land description.
- Means of Diversion. The claimed means of diversion can be changed to identify similar or identical means of diversion consistently.
- Stock Drinking Direct. The claimed POU and POD legal land descriptions involving direct surface water stock use can be changed to be equivalent.

Clerical Errors. Claims with clerical errors may be edited by the department without claimant contact if the intent of the claimant is clear. The claim and attachments, or specifically related claims, must provide the correct data. Examples of clerical errors are:

- Legal land descriptions are reversed
- Priority date, period of use, source, POD, etc. are not on the claim form but are clearly stated in the documentation
- N, S, E, or W are not indicated in the legal land description for township or range
- Units for flow rate are not on the claim form but are clearly indicated in the documentation

Discrepancies In Claimed Data. The claimant must be contacted when claimed data has apparent discrepancies but neither the claimant's intent nor a correction are clear in the claim and attachments. Changes can be made to correct such discrepancies upon instruction from the claimant. Some examples of discrepancies are:

- Incorrect legal land descriptions were claimed for a POU or POD
- Units for flow rate or volume are not indicated in the claim
- Claimed flow rate or volume amounts are inconsistent with the claimed use or system

- Legal land descriptions on the claim form and map disagree
- Documentation submitted with the claim indicates several priority dates
- Priority date in the documentation does not match priority date on claim form

2. Making Clarification Changes. Changes to claimed information made as authorized clarifications (no change in claimant's intent) are made on the examination worksheet. Cross out the claimed data and write the clarified data next to it. Place an asterisk in the left margin of the worksheet next to the changed element. Extensive or complex clarifications of POU legal land descriptions can be made on the worksheet or on a POU code sheet.

Document the clarification change on the worksheet by checking the rule number in the line below the changed element. If more explanation is needed, use the comment line in the same area.

The claimant may need to be contacted for certain clarifications. Document the data supplied by the claimant and the specifics of the contact i.e., whom, when and how received, etc. See "Claimant Contact Techniques: Making And Processing Contact" for detailed procedures.

3. Clarification During Claims Collection. Most of the original claims submitted were reviewed to make them complete, clear, and interpretable for computerization. When the department changed an item on the claim form, the change was noted by placing an asterisk or "DNRC" in the left margin (outside the border) next to the item clarified. Both changes and asterisks were entered into the computer data base. These changes will be identified on the examination worksheet by a printed asterisk in the left margin next to the clarified element.

During claim examination, carefully check those items changed on the claim form and noted with an asterisk on the worksheet. Confirm the change was made correctly. If a clarification change was made but no asterisk was added, place an asterisk on the worksheet.

Determine whether the change was made in accordance with Supreme Court rules (Rule 6.II.). If so, check "rule" on the worksheet, and note it on the "comments" line under the clarified element, e.g., "Clarified on 3/4/88."

If past clarification was incorrect and the change cannot be considered a 'clarification' or 'rule' change, correct the examination worksheet to reflect the original claimed information. Check "DNRC error" on the worksheet and note the reason on the comments line. Cross out the computer generated asterisk and add a checkmark to the left hand margin of the worksheet next to the change. Follow standard examination procedures.

D. CODE SHEET INSTRUCTIONS

Code sheets are used to add data to the computer record of a claim. Code sheets are normally used anytime a POU, POD, owner, reservoir, or remark is added to a claim in addition to the information on the worksheet. The following sections discuss standards for filling out code sheets to maintain consistency of data entry into the computer.

Code sheet samples (POU, POD, owner, reservoir, remark) are in Exhibit IV-4.

1. Completing Code Sheets. Legibility is critical when completing code sheets. They should be completed using the standardized letter and numeral printing formats in Exhibit IV-5. Print clearly and darkly, using all capital letters. Bright colored pens, such as red, green or purple, are preferred as it is easier to read and increases the speed of data entry.

Across the top of each code sheet are seven blocked areas. Any time a code sheet is used, complete the seven blocked areas as follows.

<u>Title</u>	<u>Procedure</u>
ACTION	Three possibilities exist which are A (add), D (delete), C (change). Most actions during examination use "A" which tells the computer to add the record. When adding data to an existing record, use "C" which tells the computer to change the existing record, e.g., use "C" to add well data to an existing well record.
GEN CODE	Two possibilities exist, Y (yes) or N (no). Always use "Y" (tells the computer to print an abstract).
GEN	Complete this as "01" which tells computer the number of copies to generate.
BASIN	Use same basin code as found on claim. Left justify.
ID CODE	Use "W," "Z," "O," or "J" as per claim.
ID NUMBER	Use entire claim number (example: 000083).
EXT ID	Always use "00".

Complete the remaining areas of each code sheet as follows.

a. POD Code Sheet (Form WR12).

<u>Title</u>	<u>Procedure</u>
ID	Enter the number of the new diversion. (Example: If the worksheet shows two POD's and a third is being added, complete this area as "03.")
MEANS	Enter the means of diversion code.
LOT	If applicable, enter one lot number. Right justify, do not zero fill.
BLOCK	If applicable, enter one block number. Right justify, do not zero fill.
QUARTER SECTIONS	Q1 = 160 acre designation Q2 = 40 acre designation Q3 = 10 acre designation Q4 = Omit
SEC	Enter Section. Right justify and zero fill.
TWP	Enter township. Right justify and zero fill.
RGE	Enter range. Right justify and zero fill.
CNTY	Enter county code (e.g., Gallatin = GA)
SOURCE	Refer to "Source Name Coding Consistency" below. Enter "Y" at UT if source is an unnamed tributary. Enter "N" if it is not an unnamed tributary.

b. POU Code Sheet (Form 76-C-2).

<u>Title</u>	<u>Procedure</u>
PURP ID	Purpose ID. Enter the purpose code for the claim. Since only one purpose is allowed per claim, the purpose code will always be followed by "01". Example: IR01.
PRCL ID	Parcel ID: Enter the number of the new parcel. Example: If the worksheet shows six parcels and a seventh is to be added, complete this area as "007".
ACRES	Enter number of acres for added parcel. Example: 37.00.

For remainder of areas to be completed, refer to POD code sheet instructions.

c. Remark Code Sheet (Forms WR17-A and WR17-B).
See the introduction to Chapter V, Standard Examination Remarks, for a discussion of these forms.

d. Owner Code Sheet (Form WR05). This code sheet is divided into two main parts. Use only the "Owner Record" area.

<u>Title</u>	<u>Procedure</u>
OWNR RELT	Owner Relation. Enter "M" for main or original owner. Enter "T" for transferred owner.
OWNR TYPE	Owner Type. Enter "C" for corporation. Enter "I" for individual.
OWNER NAME AND ADDRESS	Refer to "Owner Coding Consistency" below.
RELATED OWNER NAME	Omit.

e. Diversion, Well, Reservoir Code Sheet (Form WR06). This code sheet is divided into three parts. Only the "Reservoir Record" and "Well Record" areas will be used during examination.

<u>Title</u>	<u>Procedure</u>
	(For "Well Record")
ACTION	Enter "C" (changing Well Record by adding data).
DEPTH	Enter well depth in feet. Round to no decimal places. Right justify.
WTRLVL	Enter static water level in feet. Round to no decimal places. Right justify.
YIELD RATE	Enter pumping rate from the well test data in gpm. Round to no decimal places. Do not use claimed flow rate or means of diversion pump capacity. Right justify.
CSNGDIAM	Enter casing diameter in inches. Computer assumes two decimal places. (i.e., Enter 6 inches as "600"; enter 7.5 inches as "750").
PUMP SIZE	Omit.
RATE, et.seq.	Enter data from worksheet.

For remainder of areas to be completed, refer to POD code sheet instructions.

(For "Reservoir Record")

ID	Enter the number of the reservoir to be added. (Example: If worksheet lists one reservoir but two are involved with the claim, complete as "02".)
NEW CAPACITY	Enter maximum capacity in acre-feet.
DAM HT	Enter height of dam rounded to the nearest foot. Dam height is the vertical distance from the lowest point on the dam crest to the lowest point on the natural ground (including any stream channel) along the downstream toe of the dam.
ENLG	This block defines offstream/onstream. Enter "Y" for offstream reservoirs. Enter "N" for onstream reservoirs. Enter "R" to print only the lake or reservoir name, and suppress all other reservoir data on decree abstracts (used for reservoirs where storage is not part of the right and for natural lakes).
EXISTING CAPACITY	Omit.
SURFACE AREA	Enter surface area in acres.
RESERVOIR/LAKE NAME	Standardized name of reservoir or lake. If none leave blank.

For remainder of areas to be completed, refer to the POD code sheet instructions. When the claimant has control of the reservoir as part of the right ("Y" or "N" code), the legal land description should be the dam location. When control of the reservoir is not part of the right ("R" code), the legal land description should match the POD.

2. Source Name Coding Consistency. When standardizing source names on the worksheet or coding source names on a POD or reservoir code sheet, use the following format.

- The type of source, e.g., river, creek, coulee, etc., should be included as part of the name.
- Forks should follow the name of the stream, preceded by a comma (Bitterroot River, East Fork).
- Abbreviations should be used only when absolutely necessary to fit a name into the field (33 characters). If abbreviations are used, abbreviate

the type of source rather than the source name.
Refer to Exhibit III-1 for acceptable abbreviations.

3. Owner Name/Address Coding Consistency. Instructions and examples for coding additional owner names and addresses is presented in the "Owner Name/Address Standards" manual (Exhibit IV-6).

4. Remarks.

a. Remark Code Sheet Standards. It is important that remark code sheets be completed properly so that remarks are entered into the data base and appear in the decrees properly. Use the following guidelines.

- Complete in ink only. The color of ink used should be one that contrasts well with the code sheet, such as red, green or purple.
- Print legibly. Use all capital letters.
- When a water right number (claim, certificate, permit, or acknowledgement) is used in a remark, only the following formats are acceptable:

W000000-00
C000000-00
P000000-00
K000000-00

The letter, six digit number (including zeros), and extended ID must be completed.

- Only the following formats are acceptable when a flow rate, volume or acre figure is used in the text of a remark:

1	OR
26	OR
347	OR
3,285	OR
84,853	OR
2.00	OR
24.50	OR
128.00	OR
1,587.00	OR
24,345.50	

- The proper format for dates is MM/DD/YY.
- The following abbreviations are the acceptable formats when writing a legal land description in the text of a remark:

SEC = section
TWP = township
RGE = range
NO. = number

- The following abbreviations are not acceptable:

POU: write it out "PLACE OF USE"
POD: write it out "POINT OF DIVERSION"
County Name: write it out (except for subdivision
remark)

- When a legal land description is used in a remark, only use commas to separate successive ~~xxx~~ descriptions. The following is the correct format.

Example: RN01THE DAM EXTENDS INTO THE NWNWNE, NENENW SEC 03
TWP 05N RGE 15E SWEET GRASS COUNTY.

- For those remarks followed by a list of water right numbers, such as the Decree Exceeded remark (D5), the amount of water right numbers that can be coded is unlimited.
- Leave no space between remark code and beginning of text. The text must begin in the first box following the remark code (i.e., CL01THE...).
- For each remark ID (e.g., CL01) three lines of text are possible before needing a second remark ID (e.g., CL02). Do not split words or numbers; if a word or number will not fit entirely at the end of a line, place it entirely on the next line.

b. Coding Remarks. This section discusses procedures for coding remarks so that information is properly identified when the summary report is prepared for the water court.

The identification of remarks will be by means of a remark code, e.g., "CL01." The code has two parts: the remark code - "CL"; and the remark number - "01."

- The remark code locates the remark in the appropriate field on the abstract or report. For example, VM remarks will all be printed in the volume area of the abstract or report.
- The remark number locates the remark on either the decree abstract or the department's examination report. It also orders the printing of remarks, i.e., 51 will be printed above 53, etc.

When more than one remark is needed for a particular remark code (e.g. "PL"), use the following procedures to space the remarks.

- Remarks numbered in sequence (PL01, PL02) will be printed together as one thought or paragraph.
- If each remark represents an individual thought, skip a number between remark codes (PL01, PL03) so a space will be printed between the remarks.

Decree Abstract Remarks. The decree abstract will contain the claimed information plus remarks authorized by the Supreme Court rules and the water court.

The Supreme Court rules identify specific areas to be remarked during the department's examination of each claim. These remarks explain unique aspects and features of a right, or limit and define a right.

Example: MU01THE WATER RIGHTS LISTED FOLLOWING THIS...

In addition, a reviewer may find that remarks are needed to retain claimed information pertinent to a specific element which cannot be stored in that particular computer record. This might include unique aspects or features, such as an unusual means of diversion (DM) or a previously decreed alternating period of use (PE).

Example: FR01CASE NO. 1492, RAVALLI COUNTY, DECREES THE ENTIRE FLOW OF SPASOFF SPRING FOR DOMESTIC USE.

For remarks to appear on the decree abstract, code with a remark number from "01" to "50," e.g., CL01 to CL50.

Examination Report Remarks. The department has been authorized to report pertinent facts, data, and issues concerning each claim in an examination report. This report will contain all remarks providing information, or identifying factual and legal issues for consideration by the water court.

Facts, data and issue type remarks will be coded with a remark number from "51" to "99," e.g., CL51 to CL99.

Example: VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUGGESTS THE ACTUAL VOLUME IS 1.20 ACRE-FEET PER YEAR.

c. Adding Or Changing Remarks.

Adding A Remark. Remark code sheets are used to add statements explaining a particular situation or issue. The "comments" line under the pertinent element may be used to document remark codes for those remarks completed on code sheets.

Changing A Remark. An existing remark on the worksheet can be deleted by drawing a line through the entire remark code, number, and text. A portion of an existing remark on the worksheet can be

deleted by drawing a line through the unwanted part of the code, code number, or text. Material can also be added directly to an existing remark on the worksheet.

Questionable Remarks. When in doubt about adding an examination remark or deleting an existing remark, check with the water resources specialist. If still in doubt refer claim to the program manager.

d. "Clarification" Remarks. During claims collection and prior to initial entry into the computer, a "clarification" process was used to make the original claim forms complete, clear, and interpretable. Remarks were added during this process by the regional office staff to make the claimed information clear and understandable and for noting issues. Such remarks will appear on the examination worksheet under "Existing Remarks in Database".

Review and evaluate all remarks added during the initial claim clarification process. It may be necessary to standardize or delete these remarks. If a "clarification" remark is not authorized by the Supreme Court rules, it must not appear on the decree abstract. If not suitable for the decree abstract, but useful for the department's report, change the remark code accordingly.

e. Computer Generated Remarks. There are two different types of computer generated remarks:

Program Generated Remarks. These are remarks added to the review abstract and decree programs but are not stored in the computer record. These remarks will print on a review abstract as 41 and 91 remarks.

Example: FR41NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Computer Stored Remarks. These remarks are added to the water rights data base through the standards program when changes are made to the flow rate or volume. The standards program will generate the remark.

Example: VM51THE CLAIMED VOLUME EXCEED THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

Keep in mind, if a 41 and 91 remark is printed on a review abstract, this remark will not appear in the computer. It is not necessary to code these or any other computer generated remarks. Further, only under certain conditions can computer generated remarks be suppressed.

E. CLAIMANT CONTACT TECHNIQUES

The department will use claimant contact as the principal means of gathering facts and data pertaining to issues on claims unresolved by the routine examination procedures outlined in this manual. Contact also provides the opportunity for claimants to instruct the department to make changes to their claims that clarify their intent.

Generally a claimant will be contacted once after all claims of the ownership have been reviewed and the questions needing attention have been identified. The consolidation of issues leads to efficiency and effective results with minimum intrusion upon the claimant. Be well organized and thorough, making sure that all needed information is obtained. Have issues and requests clearly listed before contacting the claimant.

1. Types Of Contact. Claimant contact may be by telephone interview, personal interview, or written correspondence. Several alternatives may have to be used to completely examine a claim. The sequence in which the alternatives are used will be at the reviewer's discretion. The type of contact should be the least intrusive and most likely to resolve the discrepancies that caused the contact. Claimant contact is time consuming. It should be made as efficient as possible without sacrificing adequacy.

a. Telephone Interviews. Telephone contact is the preferred form of initial contact with claimants. Use telephone contact for resolving simple problems, soliciting missing information, and setting up interviews. Put the current phone number in the place provided on the examination worksheet.

b. Personal Interviews. Interviews should be cordial, informal, and not antagonistic. The more comfortable the claimant is, the more information will be gathered. Specific appointments should be made for interviews.

Regional Office Interviews. This is the preferred location for in-person interviews as all required materials (aerials, topographic maps, etc.) are available.

Out Of Town Interviews. Many regional offices are located long distances from the areas they are examining. Appointments may be made to meet claimants somewhere in the basin when necessary. A centrally located point such as a county courthouse, SCS office, or library are possibilities. To meet the claimant at their home is also acceptable.

Be sure that enough appointments are set to warrant the trip. Seek approval for all travel from the regional office manager.

c. Letter Contact. Contact letters may be sent in many situations. For example, a letter can be sent when telephone contact has failed, to document telephone contact, or to supplement

a claimant interview when the information needed is complex. Retain copies of all letters in the pertinent claim files to document the correspondence.

There are several types of letters that can be sent depending on the circumstances.

- Questionnaire Letter. Use this letter when detailed information is needed such as on pumps, reservoirs, power generation, mining, etc. The letter generally is comprised of two parts: (1) cover letter (see Exhibit IV-8) and (2) questionnaire.
- General Contact Letter. Use this letter when an appointment needs to be made for an in-person interview. Generally, it is used when a claimant can't be reached by telephone. This letter is designed to be quick and efficient. (Exhibit IV-9).
- Personalized Letters. Use customized letters to address specific situations that require individual attention. Some typical uses for personalized letters are
 - addressing unresolved issues that are intricate and require explanation;
 - confirmation of items discussed during telephone contact or personal interview;
 - confirming or scheduling the date, time, and location of an interview or field investigation.
- Final Letter. Use this letter when the initial contact soliciting information is not answered (Exhibit IV-10).

Letters should be clear and concise, yet sufficiently detailed to inform the claimant of what is needed. When pertinent, copies of the claim, map, aerials, and other helpful materials should be included. Including a synopsis of the unresolved issues in the letter is advised as it allows the claimant to gather and prepare information.

2. Making And Processing Contact.

a. Preparation. As a claim is reviewed, it is suggested that questions and concerns regarding the claim be listed in the general comments area of the worksheet or on an Interview Report Form, shown as Figure IV-2. This suggestion is useful for several reasons. First, it documents the concerns the reviewer has following the initial review of the claim. Second, it will help keep the contact with the claimant quick, efficient, accurate, and complete. Third, the list of concerns will be invaluable to staff helping the claimant if the reviewer is absent when the claimant visits the office.

DNRC INTERVIEW REPORT FORM

CLAIM NO: _____

PERSON INTERVIEWED: _____

RELATIONSHIP: CLAIMANT _____ OTHER _____

INTERVIEW METHOD: PHONE_____ IN PERSON_____ LOCATION_____

TOPICS DISCUSSED AND FACTS IDENTIFIED: _____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

INTERVIEWED BY: _____ DATE: _____

An approach that favors efficiency is to set up an interview with the claimant as soon as questions and concerns are encountered which require contact. Then use the intervening time to complete the preliminary review of ownership. For every ownership the need for contact should be assessed once all elements of all claims of an ownership have been examined. Prior to contact, it may be helpful to research all water rights of the claimant (including permits and certificates) for an overview of the claimant's water use.

b. Who And When. Contact should be with the present owner of the right (claimant). If there is information in the claim file which indicates the current owner is represented by an attorney, verify with claimant whether contact should be made with attorney or claimant.

Normally a claimant will be contacted no more than two times concerning unresolved issues pertaining to their claim.

- Questionnaires. It is often required that questionnaires be sent to claimants to request additional information before a claim can be examined. This is a preliminary inquiry, meaning claimants may be contacted two more times regarding unresolved issues pertaining to their claim.
- First Contact. The first contact should be by telephone if possible as this is faster than composing and sending a letter (Exhibit IV-9). First contact may be to resolve an issue, set up an interview, or request some action by the claimant. If an interview will be conducted, set up an appointment at the earliest convenience, preferably within 30 days. If the claimant is asked to take some action or provide information, request that it be within 30 days (or some reasonable time frame).
- Second Contact. If no response is received from the first contact within the set time frame, make a second contact, by letter, (Exhibit IV-10), allowing another 30 days to respond.

It is recommended that the time frame from first contact to close of second letter period be limited to a total of 60 days. After the full time frame expires (60 days total), process the claim through alternative procedures such as field investigation or remarking issues. If the claimant responds anytime prior to completing the basin, the information should be used.

Always complete the "contact" area of the examination worksheet. Note the type of contact, date, and location of the interview findings. It is important the "first contact" and "second contact" initiating action be documented. There may be unanswered or intermediate telephone contacts which do not require documenting.

Split Ownerships. Many claims have been subdivided or otherwise split since the filing period. When contact is necessary

to clarify the intent of the claimant, see "Amended Claims: Who May Amend" for general procedures involving claims with multiple owners.

c. Written Correspondence. All correspondence must include the date, claim numbers, names of addressee and signatory.

Send contact letters to all owners having different addresses. In this situation, the letterhead should list one claimant with all other owners listed at the bottom of the letter.

If the claimant requests that someone else be contacted, e.g., an attorney or the person who completed the claim form, then direct all future contact to that party with copies going to the claimant. Document the request.

Send all contact letters via first class mail on regional office stationery. Place a copy of any contact letter in each pertinent claim file for documentation.

Returned Contact Letters. Contact letters returned from the post office with no forwarding address should be researched. There are several methods of obtaining correct addresses, such as checking telephone directories or regional office records for varying addresses on different filing. However, county courthouse research is the most effective way to determine a correct address. The county assessor's office usually has the most current ownership and address information.

d. Documenting Contact. When a claimant is contacted (telephone, regional office, out of town), document the contact in the general comments area of the worksheet or on an Interview Report Form (Figure IV-2). If more room is needed to document the findings, add and refer to additional sheets. Don't under document. Make the interview findings detailed and complete so that they are understandable to anyone reading the file.

- If an interview is refused, note this in the comments area of the worksheet. Alternative examination procedures such as a field investigation or remarks need to be pursued.
- If the claimant fails to appear for an interview, attempt to reschedule.

Prior to the interview, complete the pertinent portions of the Interview Report Form. During or directly after the interview, complete the remainder of the form. The form must be placed in each pertinent claim file and will become a permanent part of the file.

The procedure discussed above is the preferred method for documenting interviews. For simple cases, the interview may be documented under "General Comments" on the worksheet. All documentation should include: (1) persons contacted; (2) date; (3) means of contact; (4) topics discussed; (5) facts and data identified; and (6) claimant instructions or action to be taken.

In cases where the claimant is expected to take some action, e.g., submit further documentation, a letter confirming the conversation may be sent as a reminder. This also insures that the reviewer and the claimant are on the same wave length. Copies of all correspondence must become part of the claim file.

e. Docket System. Claims which have unresolved issues and are waiting for claimants to respond should be maintained in a separate file which may be in alphabetical order by claimant's name. It is suggested that one general file be maintained for all claims in the regional office awaiting response. By having one common file, other staff will be able to locate a claim file easily if the original reviewer is out of the office.

A docket system is required so that the final contact letter is sent in a timely fashion and as a check that 30 days have elapsed prior to finalizing the examination of the claim. It is suggested that either one office log or individual reviewer logs be kept of due dates and claimants' names. An alternative to a log would be marking the first file folder of a group of claims in an ownership with the type and date of contact. Review the log or claim files regularly, at least every two weeks.

3. Possible Outcomes Of Claimant Contact. Claimants may be contacted to gather facts and data pertaining to apparent discrepancies or issues unresolved by routine examination procedures. The contact can have one of several outcomes and actions to be taken by the department.

- Information discussed confirms the claimed data. Do not change the claimed data beyond routine clarification. Document the information supporting the claimed data.
- Data different from the claim form are substantiated which the claimant wishes to have replace the claimed data. The claim can be changed on instruction from the claimant, either written or oral, or by amendment. Document the information used to substantiate the new data.
 - (i) See "Special Provisions: Amended Claims" for requirements of when a claim must be amended.
 - (ii) See "Examination Materials And Procedures: Clarification" for requirements of when a claim can be changed by either written or oral instructions from the claimant.
- The issue or discrepancy is unresolved, either because no information to substantiate or correct the claimed data is found or because the claimant chooses to retain the claim as is. Do not change the claimed data beyond routine clarification. Add an issue remark to the department's examination report.

F. INVESTIGATION TECHNIQUES

1. Ownership Check. This type of review can be a valuable resource as a backup or in conjunction with other claimant contact methods. An ownership check may be used in preparing for an interview, e.g., solving vague POU's or overlapping ownerships.

Use the county land ownership records at the courthouse. These are usually maintained by the county assessor or clerk and recorder. Some counties will research ownership via telephone requests. If travelling to a courthouse, wait until there are several ownerships needing to be researched.

Be aware that defining acreage through an ownership check may not be accurate. For example, a right developed on leased land may be used on the leased land and the claimant's property. Use claimant contact in conjunction with an ownership check that indicates a discrepancy with or in the claim.

An ownership form (Exhibit IV-11) may be used to pictorially illustrate and document the ownership research. Complete the "ownership check" area of the examination worksheet.

2. Windshield Investigation. This type of field investigation is primarily designed to educate reviewers as to the physical layout of a basin and the general water use patterns. These investigations may be used as a basin tour soon after a basin is opened for examination.

Windshield investigations may be used to help clarify issues of a right without formal investigation, claimant contact, or travel on private property. For economy, wait until several claims need investigation before conducting a windshield investigation, or conduct it in conjunction with other travel.

Prepare for a windshield investigation as you would for an interview. Take pertinent materials with you. Do not travel on private roads or property. If claimed information is changed or confirmed by the windshield investigation, it is recommended that the investigation be documented.

All windshield investigations require the regional manager's authorization.

3. Field Investigation. Field investigations are intended to identify facts and data regarding the use of water related to a water right. Investigations must be accurate and completed in a timely manner. The investigation report must describe thoroughly and concisely all relevant observations and data.

a. Types Of Field Investigations.

Investigations During Basin Examination. The water court will issue an order applying to an entire basin or subbasin authorizing field investigations where the department or the water court finds an investigation necessary to achieve accuracy. Field investigations during claim examination cannot be conducted by the department unless an order has been issued by the water court giving blanket authorization to the department to conduct investigations in the basin being examined. If a field investigation is needed but an order granting blanket authorization has not been issued, contact the program manager to initiate the process of requesting an order.

Field investigations may be conducted only when routine examination procedures and claimant contact have not resolved discrepancies of substantial importance to the claimed water rights, or as ordered by the water court. If initiated by the department, the claimed water right must appear to be erroneous, exaggerated, or nonexistent (or data sources are not adequate to determine the existence or extent of the right). An example would be an irrigation claim where no irrigation is evident on the data sources and the claimant maintains that the place of use has evidence of an irrigation system. In addition, there must be a likelihood of resolving the discrepancies or obtaining helpful data as a result of the field investigation.

- All field investigations during claim examination must be approved by the regional manager. The authorization will be documented by the regional manager initialing the space provided on the examination worksheet.
- The regional manager will establish a method of assigning field investigations to the staff. Assignments will consider the person who examined the claim and the proximity or concentration of the claims.
- When a field investigation is approved, contact claimant to establish a date and time for the investigation.
- A completed Notice Of Intent To Conduct A Field Investigation (Figure IV-3) must be in the claim file to document proper notification.
 - i) If the claimant agrees to a field investigation and to waive the 20-day waiting period, the field investigation may be conducted at any time after the waiver is signed. The waiver may be signed at any location. The signed notice must be filed with the claim. In this circumstance, it is not necessary to send a copy of the notice to the water court.
 - ii) If the claimant cannot be contacted or does not agree to the field investigation, mail the notice to the claimant and the water court at least 20 days in

FIGURE IV-3
NOTICE OF INTENT TO CONDUCT A FIELD INVESTIGATION

TO: Claimant

FROM: Department of Natural Resources and Conservation
Water Resources Regional Office

This is to provide you with notice that the Department of Natural Resources and Conservation intends to conduct a field investigation of Water Right No(s). _____

on _____, 19__ at _____ am/pm.

The basis for this investigation by the Department is:

The Department is authorized to conduct field investigations when routine examination procedures and claimant contact do not clarify discrepancies of substantial importance to the claimed water right. If you feel that a field investigation should not be conducted, you must file a written objection to the field investigation with the Montana Water Courts (P.O. Box 879, Bozeman, MT 59715) using the following procedures:

(A) A written objection must be filed by you with the Water Court and served upon the Department at least five days before the date scheduled for the field investigation.

(B) Your written objection must contain a statement of reasons explaining why the proposed field investigation is improper, unnecessary, or should otherwise not be conducted.

You are requested and encouraged to accompany the Department employee during the field investigation. You will be contacted prior to the date of the investigation to confirm the meeting location and time. If you have any questions, please feel free to contact the Department at (406) _____.

DONE this _____ day of _____, 19__.

Water Resources Specialist
Water Rights Bureau
P.O. Box _____
_____, Montana _____

* * * * *

I consent to waive the required 20-day waiting period between this notice and the date the field investigation can be conducted.

Signed: _____ Date: _____

advance of the intended date of the investigation. The notice form should be sent to all claimants with different addresses.

The 20 day period may be shortened only by order of the water court, or by written waiver from the claimant. The 20-day waiver may only be signed by the claimant or their legal representative. The waiver may be signed in any location and at any time prior to the investigation.

If the 20-day notice period is waived, send a copy of the notice form to the water court after obtaining the claimant's signature.

- Keep copies of Notices, or a log, in the basin file to document the total number of field investigations conducted during examination of the basin.
- Confirm the date for the field investigation prior to going. If the claimant is hostile to the idea of the investigation, don't go. Pursue other examination procedures such as remarking the issues.
- The field investigation will be conducted with the claimant present if the claimant so desires. The claimant should be encouraged to attend. Conversely, the claimant may file an objection to the field investigation as outlined on the Notice Of Intent form.
- The field investigation form (Exhibit IV-12) should be used as a worksheet for taking notes. Following the field investigation, the field investigation form will be completed and added to the claim file.
- Formal reports (see below) will be prepared for field investigations requested by the water court or the department's legal staff.

Requests By The Water Court. A written request or order for a field investigation should be sent to the central office with a copy sent directly to the regional office. If the request does not indicate that it was also sent to the central office by the water court, mail a copy to the adjudication program manager the same day it is received in the regional office.

Review the field investigation request. The water court may indicate the parties to be contacted. The water court usually indicates the investigator and the elements to be investigated. The request or order often indicates a deadline for the report to be received by the water court. It may be assumed that permission to enter the property has been given to the court by the claimant or the claimant's representative. If there are any questions or uncertainties, discuss the request with the water master.

Prepare a formal report and send it to the adjudication program manager for review. When the report appears thorough and complete, the bureau chief will initial it, and it will be mailed to the water court. The report must be in Helena five working days before the water court deadline, or sooner, if possible. This will ensure time to meet the deadline if revisions are necessary.

If the water court deadline cannot be met, the investigator must notify the adjudication program manager at least five working days prior to the deadline. The program manager will request an extension from the water court.

b. Preliminary Work Prior To Investigation.

Prioritize Investigations. A log of all investigations will be maintained by the regional office staff. At any time the number of investigations requested, source of request, number completed, number pending, etc. should be known. Exhibit IV-13 is a suggested format.

Field investigations may be prioritized by deadlines, budget considerations, or degree of difficulty. An aid in prioritizing field investigations is to prepare a map of the basin using a county highway map. Identify the location of each investigation with a pin and attached owner label. Use one color pin for claims to be completed first and another color pin for claims to be done later. Other colors may signify extensions needed, investigations completed, etc. This map provides a visual concept of the field investigations for the basin. It shows area concentration, where investigations should first be conducted, where investigations have been conducted, etc.

In-Office Preparation. Review the file for all claimed and examined information. Carefully check the data to acquire a thorough knowledge of the claim.

Materials that may be gathered and analyzed include

- the claimant's claims, permits, changes, and certificates for the area involved
- aerial photographs used for the Water Resources Survey
- Water Resources Survey
- copies of the survey field forms
- new aerial photographs/orthophotoquads
- copy of overlay showing claimed and examined POU
- topographic maps

Pull the aerials, topographic maps and orthophotoquads of the area to be investigated. Review source name, POU, POD, topography, landmarks, ditches, highways, etc. Review priority date, acres irrigated, historical irrigation per Water Resources Survey, possible incremental development, etc. List pertinent questions.

Prepare field maps showing claimed data and examined data, noting areas of concern. These maps will be used to record investigated data. Mylar overlays, photocopies, or drawings directly on the resource materials have all been used. The best method is to record field observations on clear mylar overlays or photocopies to be retained as permanent field notes.

Items to be taken to the field might include

- county highway map, BLM map, Forest Service map, etc.
- copies of all pertinent water rights including claims, changes, permits, and certificates (it is advised not to take originals into the field)
- the Notice Of Intent To Conduct A Field Investigation
- the water court field investigation order (if applicable)
- copy of the examination worksheet
- field investigation report form(s): complete pertinent portions before leaving the office
- original aerial photograph and maps, with copies to draw on, other maps, and the mylar overlays
- calculator
- camera and extra film
- binoculars
- hand level or engineer's level
- survey rod
- measuring wheel
- tape measure and steel tapes
- writing pad with clipboard and spare pencils
- equipment for measuring flow rate
 - 5 gallon bucket
 - piece of garden hose
 - stop watch
 - flow meters
 - portable weir or flume
 - plastic dams
 - carpenter's level
- compass
- wading boots
- acreage grids
- tape recorder
- shovel
- fly rod

c. Field Procedures. On-site field investigations give the investigator an opportunity to observe the operation, condition, and physical layout of the system. Of primary importance is observing and describing the water right elements of major concern--especially those that are the basis for the investigation. Of secondary importance is observing and describing other elements that may be confusing or conflict with the claim. Time and size of the project may allow inspection of only the primary issues.

When the claimant is present for the investigation, review the entire claim file to confirm the department's interpretation is the same as the claimant's intentions. Discuss the areas of concern to be investigated. It is important that the claimant and the investigator have a mutual understanding and awareness of the problems.

Conduct the field investigation in a sequential manner. If possible, start at the POD. Ask pertinent questions regarding the POD, such as "When was the diversion structure installed?" Compare actual POD with aerial photograph for correct legals. Note the means of diversion and whether the structure is evident and operational. Take structure measurements that may be needed later. Photograph the POD and begin a log of each photograph taken.

Next, address the delivery system. What is its condition and operational status? Note the maintenance, type of vegetation growing along and in the ditch, and other water loss considerations. If water is not flowing, determine whether the ditch would convey water in the proper direction. It may be necessary to use a hand level. Observe the secondary delivery system (laterals from the main ditch). Discuss with the claimant the history of use of the ditches including those plowed under. Take ditch measurements and photographs of pertinent features along the conveyance system.

Continue the investigation by checking the POU, beginning with the first field served by the delivery system. Take at least one photo of each field. Note the slope, soils, topography, type of vegetation, crop, and other relevant conditions. Ask the history of irrigation for each field. Make note of all areas that may not be irrigated such as high spots, swampy areas, steep areas, buildings, roads, brush, natural channels, etc. Any doubt concerning all or a portion of the irrigation should be discussed with the claimant.

Map the POD, delivery system, and POU on the field maps. Map the acreage being irrigated this year excluding unirrigable areas. If the present system differs significantly from the original (historical) water right, obtain a history of the differences sufficient for mapping and for discussing in the written report. Indicate existing, former, and recently constructed ditches. Have the claimant check and confirm your observations or provide evidence to the contrary.

This same procedure should be used for reviewing all elements of the water right. Take careful notes, drawings, and photographs as the investigation progresses. Do not rely on memory. Remember that you may be called to testify about the investigation. The field investigation form (Exhibit IV-12) should be used to record your observations. It is designed so pertinent information is not forgotten or overlooked. In addition to the information requested on the field investigation form, the following questions may be pertinent to the investigation.

POD:

- When was the diversion structure constructed?
- Is this the original headgate?
- Has the point of diversion been changed?
- If so, when was it changed?
- If not in recent operation, when was it last used?

Storage:

- When was reservoir or pit originally constructed? What changes or modifications have been made to it?
- Has the reservoir or pit been enlarged?
- When was it enlarged?
- How many times a year does reservoir or pit fill?

Conveyance:

- Is this the original system?
- If not, when were changes made?
- What and where is the historical conveyance system?
- Are any of the old ditches evident?
- Explain any secondary conveyance systems?
- When were the secondary systems constructed?

POU (irrigation):

- Was all the land put under irrigation at the same time or was land developed over the years?
- If incremental development, when was each field or portion of each field first irrigated?
- Why hasn't irrigation taken place since date of last use?
- When will the place of use be irrigated again?

Flow Rate:

- Pump: Rated capacity (gpm, gph, cfs), horsepower, make and model, lift (feet).
- Well: Depth, static water table, drawdown, casing size.

TIPS

- Be prompt and courteous.
- Travel only on established roads.
- Leave gates as found unless the claimant states otherwise.
- Respect property.
- When setting the date of the investigation, tell those participating that pre-1973 water use will be discussed.
- Do not go to a claimed area without proper authorization.
- Discuss differences between claim and field observations with the claimant.
- Do not agree with the claimant about areas of the investigation if the final report may differ.
- Do not presume to know the effect of the investigation on the final outcome of the right.

d. Post-Field Investigation. As soon as possible after the field investigation complete the remainder of the Field

Investigation Form (Exhibit IV-12). For field investigations during claim examination, a formal report is not required. A completed Field Investigation Form along with pertinent maps and photographs will be added to the claim file. Field investigations requested by the water court require a formal report (see below).

(1) Maps and Overlays. Attach a white stick-on tag so that all writing is clearly contrasted. Labels are available from the Helena central office upon request. It's format is:

DNRC SUPPLEMENTAL DOCUMENT	
CLAIM #	_____
PREPARED BY	_____
DATE:	____/____/____
MAP/AERIAL:	_____

Carefully complete all maps with clear identification of concerned features. The identification of maps should include:

- figure number/title
- claim number/case number
- claimant's name
- aerial photograph number/date
- scale
- reference to overlay
- legend
- section, township, range, county
- north arrow
- section corners

The various maps submitted with the report might include general location map (Exhibit IV-14), general system map (Exhibit IV-15), and photograph orientation map (Exhibit IV-16). The general system map may consist of an aerial photograph and various overlays showing claimed and observed data.

(2) Photographs. Photographs add greatly to the usefulness of a field investigation. Anything that can be put in the photograph to give perspective is useful, e.g., vehicle next to reservoir, person standing next to headgate, etc. Mount photographs on 8½ x 11" paper for labeling under the photograph. See Exhibit IV-17. If possible, do not label photographs on the front as this may lessen their value as evidence. Identify important features in the "Subject" area of the label. To identify unclear features, use arrows with labeling in the margin or the "Subject" area. Place claim number and photo number on back of photograph for identification if they become detached.

A photograph location map showing the photo number, location, and direction should be included.

Photo negatives should be stored in a separate file in the regional office.

(3) Field Notes. Field notes will become part of the claim file for investigations during claim examination. This would include the Field Investigation Form, photo log, field maps, measurements, computations, etc.

When a formal report is submitted, retain the field notes with a copy of the formal report in a file at the regional office.

(4) Formal Reports. Formal reports will be prepared for field investigations requested by the water court or the department's legal staff. The report must address those items stated in an order or specifically requested. The remaining elements of the water right, if incorrect, confusing, or conflicting with the claim, should be discussed. If time or size of the project only allows inspection of primary items, the report should so indicate.

Formal reports should concisely state the facts found. Reports should be clear concerning observed facts versus facts learned from a party (hearsay). Facts learned secondhand should be reported with their source clearly noted. An analysis of the data can be made based on substantiated and documented facts. Avoid qualifying phrases, recommendations, or opinions.

When reporting on rights historically but not presently used, or possibly used to a much greater extent than the original appropriation, a chronology of relevant data should be discussed.

If flow rate or volume is observed to be significantly above the standard or appears excessive, the report should address as many factors affecting the water use requirements as possible. The resolution of the issue may hinge on the factors discussed in the report. For example, a discussion of various factors like soils and slope, custom in the locale, conveyance losses, reasonableness of design, maintenance of the facilities, demand of other appropriators on the source, quantity of return flow, etc., will be invaluable to those who must decide the flow or volume issue.

To help standardize reports, the organization shown in Figure IV-4 is recommended. Figure IV-4 describes the type of information to be included in a report. Exhibit IV-18 gives examples. By following this outline, complete and consistent reports should be achieved statewide.

The primary parts of the formal report (Figure IV-4) are:

- Heading
- Introduction
- Description of System
- Results of Investigation
- Summary

FIGURE IV-4

FIELD INVESTIGATION REPORT

TO: Requestor
FROM: Investigator
DATE: Of Report
CLAIMS: Basin and Water Right Number, Purpose of Water Right,
Owner

INTRODUCTION

The introduction should lay the groundwork by covering all preliminary information. Five areas that should be covered in the introduction are listed in the examples.

DESCRIPTION OF SYSTEM

This section should give a general description and location of the water system. Save details and specific measurements for later in the report. The description should include the general condition and status of the point of diversion, conveyance facility, and place of use. If all or part of the system is not presently in use, describing the condition and operational status is important.

RESULTS OF INVESTIGATION

This area should include by element the findings, evaluation, and analysis of all the data gathered. Each element unclear during the examination, or which the water court has asked be inspected, should definitely be discussed. In addition, other elements should be discussed if the on-site inspection and other data reveal that the information may be inaccurate or inconsistent.

The discussion regarding each element may vary depending on the particular data, and the individual's writing style. Give a chronology of the data collected outlining the history of an element.

SUMMARY

A synopsis of the investigation's major points should be presented. Discrepancies between claimed versus observed data should be specifically outlined in the summary. The summary can indicate a condensed analysis of the data and facts and whether more work, measurements, or further investigations are needed. The summary should be stated as a series of facts rather than opinions or recommendations.

Some suggested writing tips are:

- Use a narrative format, rather than an outline.
- Be concise.
- Be consistent in your use of terms such as measurements.
- Use active voice and strong verbs.
- Don't express opinions.
- PROOF your report.

(5) Remarking Results. Information identified during a field investigation which was not incorporated into a claim by amendment should be identified on the department's examination report. Add a remark under each appropriate element or a general information (GI) remark when addressing more than one element.

Examples: P225 PL51A FIELD INVESTIGATION CONDUCTED ON 03/12/86 FOUND 1600.00 ACRES PRESENTLY BEING IRRIGATED. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P620 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. A FIELD INVESTIGATION CONDUCTED 03/15/84 FOUND NO EVIDENCE OF RECENT MINING ACTIVITY. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

G30 GI51A FIELD INVESTIGATION CONDUCTED ON 04/15/87 FOUND INFORMATION DIFFERENT FROM THAT CLAIMED FOR PLACE OF USE, POINT OF DIVERSION, AND FLOW RATE. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

(Note: One or more elements can be coded.)

If a field investigation confirms an element where the manual would require a remark, then the remark would not be needed. Retain remarks for all data source issues identified during examination if unresolved by a field investigation. For instance, the aerial photograph, WRS, and field investigation identify 100 acres, but the claimant retains the 200 acres claimed, all three data sources should be remarked. If the aerial photograph, field investigation, and claim show 200 acres, but the WRS shows 100, just the WRS would be remarked.

G. EXAMINATION OF FEDERAL AND STATE AGENCY CLAIMS

Approximately fifteen percent of the claims submitted belong to federal agencies. Approximately four percent belong to state agencies. Examine these claims using the standard procedures for the purpose claimed. This section supplies addresses of these agencies and identifies the peculiarities of some agency claims.

1. US Department Of The Interior.

a. Bureau Of Indian Affairs. Examine to the extent possible, then forward to the program manager. The program manager will advise the method for dealing further with these claims.

USDI Bureau of Indian Affairs
Branch of Water Resources
316 N. 26th Street
Billings, MT 59101
ATTN: Doug Oellermann
657-6782

b. Bureau Of Land Management. The BLM claims were submitted on a computer tape, therefore no claim forms exist. They did not provide hard copy maps in most basins, but provided microfiche copies of 7.5 minute topographic maps and orthophotoquads. Each map has numerous developments on it labeled by a BLM project number which refers to the microfiche SB-BLM numerical listing. If a microfiche map is unreadable, a hard copy map may be requested from BLM.

It is suggested for BLM claims that a copy of a topographic map or aerial photograph be placed in each file showing the POD, conveyance facility, and POU. This allows anyone reviewing the microfilm record to better understand the water right. Place a label in the upper right hand corner to identify the claim number, preparer, date, and map or aerial used.

Specific questions on claims should be directed to the individual District or Resource Area Office.

Miles City District Office
Garryowen Road
P.O. Box 940
Miles City, MT 59301-0940
ATTN: Dex Hight
Telephone: 232-4331

232-7000 (Area Managers, Powder River and Big Dry
Resource Areas)

Area Manager
South Dakota Resource Area
310 Roundup St.
Belle Fourche, SD 57717-1698
Telephone: 892-2526

Area Manager
Billings Resource Area
810 East Main St.
Billings, MT 59105-3395
Telephone: 657-6262

Lewistown District Office
Airport Road
P.O. Box 1160
Lewistown, MT 59457-1160
ATTN: Joe Frazier or
Lloyd Bantz (Area Manager, Judith Resource Area)
Telephone: 538-7461

Area Manager
or Dan Jimison
Valley Resource Area
Route #1-4775
Glasgow, MT 59230-9796
Telephone: 228-4316

Area Manager
or Ken Concilya
Havre Resource Area
West Second St.
Drawer 911
Havre, MT 59501-0911
Telephone: 265-5891

Area Manager
or Clint Ulrich
Phillips Resource Area
501 South Second St. E.
P.O. Box B
Malta, MT 59538-0047
Telephone: 654-1240

Area Manager
or Chris Jauert
Great Falls Resource Area
812 14th St. North
P.O. Box 2865
Great Falls, MT 59403-2865
Telephone: 727-0503

Butte District Office
106 North Parkmont
P.O. Box 3388
Butte, MT 59702-3388
Telephone: 494-5059
ATTN: Mike Brown or Loretta Park
Telephone: 494-5059

Area Manager
Dillon Resource Area
1005 Selway Drive
Dillon, MT 59725
Telephone: 683-2337

Area Manager
Garnet Resource Area
3255 Fort Missoula Road
Missoula, MT 59801-7293
Telephone: 329-3914

Questions concerning general policy should be directed to either Francis Rieman or Peter Bierbach at the State Office in Billings.

USDI Bureau of Land Management
Montana State Office
Resource Division
Box 36800
Billings, MT 59107
ATTN: Francis Rieman or Peter Bierbach
Telephone: 255-2934

c. Bureau Of Reclamation. These claims were submitted on regular claim forms.

USDI Bureau of Reclamation
Montana Projects Office
P.O. Box 30137
Billings, MT 59107-0137
ATTN: Dave Nelson - 657-6639
Gordon Aycok - 657-6416

-OR-

USDI Bureau of Reclamation
Regional Office
P.O. Box 36900
Billings, MT 59107-6900
ATTN: Tim Grove - 657-6661

d. Fish And Wildlife Service. These claims were submitted on regular claim forms. Care should be taken to review these claims for implied claims as their main duty is fish and wildlife management with a minor livestock management duty.

U.S. Fish and Wildlife Service
Water Rights Division
P.O. Box 25486 (Mailstop: 60190)
Denver Federal Center
Denver, CO 80225
Attn: Cheryl Williss
(303) 236-5321

e. National Park Service. These claims were submitted on regular claim forms. The claims were completed by persons in the respective national parks. Examine to the extent possible, then forward to the program manager. The program manager will advise the method for dealing further with these claims.

National Park Service
301 South Howes
Federal Building
Fort Collins, CO 80521
Attn: Stan Ponce (Glacier National Park)
Ken Czarnowski (Yellowstone National Park)
(303) 221-5341

2. U.S. Department Of Agriculture - Forest Service. The Forest Service claims were submitted on a computer tape, therefore no claim forms exist. The Forest Service submitted hard copies of 1/2" to 1" per mile scale maps with many developments per map. If the hard copy maps are unclear or inadequate, ask the Forest Service for additional mapping. Blue line USGS maps are available and have been distributed to the regional offices for the majority of the pertinent forests.

For instream stock use POU should equal POD. Some forests defined the POD as the upstream end of the stockwater use and the POU as the downstream end; some did the reverse. Other forests picked one point along the stream as the POD and POU. Further variations exist. These definitions of POD and POU were also used on some recreation and wildlife claims. Claimant contact may be necessary to identify the complete POD and POU. Be aware of land ownership boundaries when expanding land descriptions for Forest Service PODs and POUs.

It is suggested for Forest Service claims that a copy of a topographic map or aerial photograph be placed in each file showing the POD, conveyance facility, and POU. Place a label in the upper right corner identifying the claim number, preparer, date, and map or aerial. This helps anyone reviewing the claim file understand the water right.

Specific questions on claims should be directed to the individual national forest offices.

Beaverhead National Forest
610 N. Montana St.
Dillon, MT 59725
Attn: Pete Bengueyfield
683-3904

Custer National Forest
2602 First Ave. N.
P.O. Box 2556
Billings, MT 59103
Attn: Lee McConnell
657-6361

Bitterroot National Forest
1801 N. 1st
Hamilton, MT 59840
Attn: Bob Hammer
363-3131

Deerlodge National Forest
Federal Bldg., P.O. Box 400
Butte, MT 59703
Attn: Tim Sullivan
496-3404

Flathead National Forest
P.O. Box 147
Kalispell, MT 59901
Attn: Phyllis Snow
755-5401

Kootenai National Forest
506 Hwy. 2 West
Libby, MT 59923
Attn: Steve Johnson
293-6211

Gallatin National Forest
P.O. Box 130, Federal Bldg.
Bozeman, MT 59715
Attn: Sherman Sollid
Cheryl Taylor
587-6715

Lewis & Clark Natl. Forest
1101 15th St. N., Box 871
Great Falls, MT 59403
Attn: Val Hancock
791-7740

Helena National Forest
301 S. Park
Federal Bldg., Drawer 10014
Helena, MT 59026
Attn: Bill Putnam
449-5201

Lolo National Forest
Bldg. 24, Fort Missoula
Missoula, MT 59801
Attn: Skip Rosquist
329-3811

General policy questions should be directed to Ron Haag at the regional office. All contact on basins in decree should be directed to Gail Dahl or Jody Miller.

USDA Forest Service
Northern Regional Office
Federal Bldg., P.O. Box 7669
Missoula, MT 59807
Attn: Ron Haag - 329-3407
Gail Dahl - 329-3062

Jody Miller
Special Asst. US Attorney
Office of General Counsel
P.O. Box 7669
Missoula, MT 59807

3. US Department Of Defense - Army Corps Of Engineers.
Examine the claims to the extent possible, then forward to the program manager. The program manager will determine the method for dealing further with these claims.

US Army Corps of Engineers
Seattle District
Office of Counsel
P.O. Box C 3755
Seattle, WA 98124-2255
Attn: Siri Nelson
(206) 764-3730

US Army Corps of Engineers
Omaha District
Office of Counsel
6014 U.S. Post Office &
Courthouse
Omaha, NE 68102
Attn: John Scalzo
(402) 221-4055

4. Other Federal Agencies. Most of the other federal agency claims are domestic or institutional water supplies for facilities or stations. If the reviewer is unsure or has questions concerning these claims, contact the program manager.

5. State Agencies. Specific questions on claims submitted by the agencies should be directed to the individuals listed below.

Department of Natural Resources and Conservation

Anne Yates
1520 East 6th Ave.
Helena, MT 59620
444-6660
(legal questions)

Ron Roman
1520 East 6th Ave.
Helena, MT 59620
444-6658
(factual questions)

Department of Fish, Wildlife and Parks

Bob Lane
1420 East 6th Ave.
Helena, MT 59620
444-4594
(legal questions)

Fred Nelson
1400 S. 19th
Bozeman, MT 59715
994-6937
(factual questions)

Department of State Lands

Tom Hughes
1625 11th Ave.
Helena, MT 59620
444-2074

Department of Transportation

Jim Beck
2701 Prospect Ave.
Helena, MT 59620
444-6090

IX. STOCKWATER

This chapter describes the procedures unique to the examination of Stockwater Claims. The following elements are discussed:

- A. Flow Rate
- B. Volume
- C. Point Of Diversion And Means Of Diversion
- D. Place Of Use

Other examination procedures for stockwater claims are described in Chapter VI, Claims Examination, and Chapter VII, Irrigation.

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A. FLOW RATE

The flow rate for stockwater claims is defined as the rate at which water has been diverted from the source. When decreed, stockwater flow rates will be expressed in gallons per minute (gpm) or cubic feet per second (cfs).

1. Identifying Claimed Flow Rate. The identification of claimed flow rates that will be decreed will follow the procedures described under "Irrigation: Flow Rate".

Runoff. During the filing period, some claimants wrote "runoff" on their claim forms to describe the flow rate. Typically this was done for intermittent (non-perennial flowing) sources to describe why no specific flow rate was claimed. The term may have been added as a remark by the department during clarification as "FR01RUNOFF". This remark is no longer needed and should be deleted during examination.

2. Examining Claimed Flow Rate. The claimed flow rate for stock claims will be reviewed according to the claimed means of diversion, using other information in the claim file, and a general flow rate guideline. Information may be gained through claimant contact.

For claimed flow rates that will be decreed, there are two underlying considerations that should be kept in mind. First, has the claimed flow rate actually been diverted? Second, is the claimed flow rate reasonable for the specific purpose? If the answer to either question is no, further information should be pursued to determine what is reasonable and accurate. This thought process should form the basis for examining all claims.

Unique Aspects Or Features. Any unclaimed aspects or features of the flow rate may be identified on the department's examination report using a flow rate remark, e.g., FR01.

Example: F45 FR01ENTIRE FLOW OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

a. Changing Flow Rate. The claimed flow rate will not be changed during examination unless:

- amended by the claimant;
- clarified by the department;
- to standardize units of measure;
- to apply standards (see part 3 below).

Make changes to the claimed flow rate directly on the worksheet. Document changes in the flow rate by checking the appropriate authority for the change, and by writing reasons on the comments line. If the change will result in a difference between the decree abstract and the claim, place an asterisk in the left

margin of the worksheet in the brackets to the left of the flow rate heading.

b. Claimant Contact. For system types receiving a flow rate in the decree, claimant contact may be required. In conjunction with the review criteria in this subchapter, the claimant should also be contacted whenever the claimed flow rate is unclear, has apparent discrepancies, or appears unreasonable. This contact can have several outcomes.

- Information discussed confirms the claimed flow rate. Document the information supporting the claimed flow rate.
- A flow rate different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claim can be changed by an amendment from the claimant. Document the information used to substantiate the new data.
- If the issue is unresolved, e.g. data is insufficient to confirm the claimed flow rate, add a flow rate issue remark to the department's examination report.

3. Specific Flow Rate Review Criteria. Flow rates for stock water claims will be decreed differently depending upon the type of system involved. This section contains the guidelines for different types of stock watering systems that serve as benchmarks for initiating further department review or claimant contact.

a. Instream Direct, Ditches, Undeveloped Springs, Onstream Reservoirs. A flow rate will not be decreed for stock **drinking directly** from:

- streams and lakes
- undeveloped springs
- onstream reservoirs
- system employing a headgate and/or ditch
- any of the above used in combination with wells, developed springs, pumps, gravity flow pipelines or offstream reservoirs.

For purposes of examining this element, springs will be presumed undeveloped, unless claimed or documented as developed (involving man-made work).

Change the flow rate on the worksheet to zero (0.00) and place an asterisk in the brackets to the left of the flow rate heading. The following remark will be added by the computer to the flow rate area of the decree abstract.

NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM.

(NOTE: This remark will not be stored in the computer.)

If an onstream reservoir is associated with the claim, the computer will add the following remark instead of the remark referenced above:

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

(NOTE: This remark will not be stored in the computer.)

b. Wells, Developed Springs, Pumps, Gravity Flow Pipelines. Claims that will be decreed a flow rate (claimed, clarified, or amended) will be those for:

- wells
- pumps and gravity flow pipelines
- developed springs
- offstream reservoirs
- rates formerly decreed specifically for stock use.

A spring will be considered "developed" if documentation indicates a development of the spring that appropriates groundwater. Refer to "Claim Examination: Source Name: Springs" for guidelines.

The guideline for reviewing these claims is 35 gpm. Claimed flow rates of 35 gpm or below will generally be accepted, but may be reviewed further if there is an apparent error or conflicting data.

When a claimed flow rate exceeds the 35 gpm guideline, the claim file will be reviewed for data supporting the claimed flow rate, such as

- horsepower of pumping unit
- length, diameter, and head of gravity flow pipeline
- well pumping depth (i.e., "head" or vertical lift)
- pump make and model
- test data (well log information)
- flow rate measurements or records

When a claimed flow rate for a pump appears in error, conflicts with pump data in the claim file (such as the pump rate at Means of Diversion), or exceeds the 35 gpm guideline, and there is insufficient information in the claim file to substantiate the claimed flow rate, a "Request for Pump Information" questionnaire (Exhibit VII-3) or "Request for Gravity Flow Pipeline Information" questionnaire (Exhibit VII-5) should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire and a cover letter (Exhibit IV-8) to the claimant. When questionnaires are returned, follow the procedures described in "Claimant Contact" above.

If claimant contact confirms a flow rate greater than the 35 gpm guideline, add a "KEEP" flag to worksheet. This will suppress any 'error/warning' messages and explain why a flow rate issue remark was not necessary.

If contact is inconclusive, or the claimed flow rate is confirmed but exceeds three times the 35 gpm guideline, add a remark to the department's examination report.

Examples: F205 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

F210 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A FLOW RATE OF 24 GPM.

c. Offstream Reservoirs. The flow rate for offstream reservoirs where control of the reservoir is part of the right will be decreed as claimed, clarified, or amended. The guideline for reviewing these claims will be the capacity of the diversion or delivery system, whichever is less. If available information is inadequate to determine or estimate the capacity of the diversion or conveyance system, or the system is shared by more than one claimant, the 35 gpm guideline should be used.

When a claimed flow rate exceeds the capacity of the system, or the 35 gpm guideline, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

Examples: F135 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.

F145 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF 2.50 CFS.

F205 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

d. Formerly Decreed Flow Rates. A flow rate will be decreed to claims based on flow rates formerly decreed *specifically* for stockwater use.

If the claimed flow rate is greater than the amount historically decreed, contact the claimant. If the issue is not resolved, add a flow rate remark to the department's examination report.

Example: F90 FR51THE CLAIMED FLOW RATE EXCEEDS THE 5 MINER'S INCHES OF WET CREEK DECREED IN CASE NO. 0000, GALLATIN COUNTY.

A formerly decreed flow rate will be compared to the guideline for the type of stock watering system. For claimed amounts exceeding the guideline, contact the claimant. If the issue is unresolved, add an issue remark to the department's examination report.

Flow rates based on a formally decreed right *specifically* for stock will be recorded. When a historically decreed right is found to be exceeded by the combined flow rate of claims based on that right, add a decree exceeded (DE) remark to the department's examination report. See "Irrigation: Flow Rate; Recording Documentation" section.

4. Flow Rate Issues. Any pertinent issues discovered during the examination should be remarked on the department's examination report using a flow rate (FR) remark.

a. Claimed Flow Rate Appears Inadequate. Claimed flow rates that appear excessively low (e.g., 1 gpm or less) require claimant contact unless the submitted documentation clearly indicates that the claimed rate is not an error. Be aware of possible unit of measurement and decimal placement errors. If an error is confirmed by the claimant, the flow rate may be amended. If claimant contact is inconclusive, add the following remark to the department's examination report.

Example: F185 FR51THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE
FOR THE CLAIMED PURPOSE.

b. No Flow Rate Claimed. If no flow rate was claimed for a stockwater claim to be decreed a flow rate, e.g., pumps and pipelines, contact the claimant. If a flow rate is not submitted, check that flow rate is "0.00" on the worksheet and add a "KEEP" flag to the right of the flow rate. Add the following remark to the department's examination report:

Examples: F195 FR51NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE
GUIDELINE FOR THIS PURPOSE IS 35 GPM.

F190 FR51NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

c. Claimed Flow Rate Not Numerically Quantified.
Where a flow rate is to be decreed and the claim states the flow rate as "All" or a portion of "All" (e.g., "½ of ALL"), follow the procedures as described in "Domestic: Flow Rate: Claimed Flow Rate Not Numerically Quantified".

B. VOLUME

The volume for a stockwater claim is the amount of water diverted in a year. Stockwater volumes will be generally described on the decree abstract in gallons per day for each animal unit.

A specific volume figure will not be decreed for stockwater claims except for U.S. government claims to reservoirs and pothole lakes. The procedures for examining stockwater volumes are discussed below according to the type of claimant.

1. All Claims Except U.S. Government Lakes And Reservoirs. A specific volume figure will not be decreed for stockwater claims filed by claimants other than the U.S. Government. A volume will also not be decreed for U.S. Government (e.g., BLM, Fish and Wildlife Service, and Forest Service) claims to all sources and diversion types other than pothole lakes and reservoirs.

Do not examine the claimed volume on such claims. Change the claimed volume on the examination worksheet to "0.00" and place an asterisk in the brackets to the left of the volume heading. The computer will add the following remark to the volume area of the decree abstract.

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

(NOTE: This remark will not be stored in the computer record.)

When the claimed volume for a reservoir is greater than 15 AF, data will be collected and added according to the procedures in Claim Examination: Reservoirs.

2. U.S. Government Lake And Reservoir Claims. A volume will be decreed for stockwater reservoir (either offstream or onstream) and pothole lake claims filed by the U.S. Government (e.g., BLM, Fish and Wildlife Service, or Forest Service). Volumes for these claims are retained and decreed pursuant to the June 17, 1985 Order from the water court. Examine the claimed volumes on U.S. Government stockwater reservoirs and pothole lakes as follows.

When the claimed volume for a reservoir is greater than 15 AF, data will be collected and added according to the procedures in "Claim Examination: Reservoirs".

When the volume is 15 acre-feet or less, it will generally be accepted and a comment should be added to the examination worksheet noting that the volume was not examined. When it is determined that the claimed volume is greater than two times (2X) the capacity of the reservoir or the capacity of the pothole lake, add a volume issue remark to the department's examination report.

If the claimed volume is over 15 acre-feet, cannot be examined using the procedures outlined in this section, and is large enough to raise doubts about being reasonable for this purpose, add a volume issue remark to the department's examination report.

Feasibility Check. U. S. Government claims that will be decreed both a flow rate and a total annual volume should be checked for feasibility. Comparison statistics under volume on the examination worksheet list the maximum volume possible if water were diverted at the claimed flow rate throughout the claimed period of use (year round use equals 366 days). Compare this figure to the claimed volume. When the claimed flow rate or period of use has been amended recalculate the maximum feasible volume figure using the following equations.

- For cfs: Feasible V = Q x days used x 1.9834711
- For gpm: Feasible V = (Q x days used)/226.28542

Contact the claimant when the claimed volume exceeds the maximum feasible volume. Flow rate, volume, and period of use should be discussed with the claimant in order to determine which is in error.

When claimant contact does not resolve the problem, the computer will add a volume issue remark to the department's examination report.

Example: VM51THE CLAIMED VOLUME EXCEEDS MAXIMUM FEASIBLE VOLUME.
BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM
VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

3. Formerly Decreed Volume. A volume will be decreed to claims based on volume formerly decreed *specifically* for stockwater. Add a volume remark to the department's examination report.

Example: V10 VM01THIS VOLUME WAS PREVIOUSLY DECREED IN CASE NO.
0000, MEAGHER COUNTY.

If the claimed volume is greater than the amount historically decreed, contact the claimant. If the issue is not resolved, add a volume remark to the department's examination report.

Example: V30 VM51THE CLAIMED VOLUME EXCEEDS THE 50 ACRE-FEET
DECREED IN CASE NO. 0000, GALLATIN COUNTY.

A formerly decreed volume will be compared to the guideline for the type of stock watering system. For claimed amounts exceeding the guideline, contact the claimant. If the issue is unresolved, add an issue remark to the department's examination report.

Volumes based on a formally decreed right *specifically* for stock will be recorded. See "Irrigation: Flow Rate; Recording Documentation" section. When a historically decreed right is found to be exceeded by the combined volume of claims based on that right,

add to the department's examination report a decree exceeded (DE) remark modified to refer to volume and acre-feet.

4. Volume Issues. Any pertinent issues discovered during the examination should be remarked on the department's examination report using a volume (VM) remark.

a. Volume Excessive. When a claimed volume that will be decreed appears excessive for the circumstances of the claim (diversion, conveyance, or use) and claimant contact has been inconclusive, add an issue remark to the department's examination report.

Examples: V40 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 2.9 TIMES THE CAPACITY OF THE RESERVOIR.

V77 VM51VOLUME APPEARS TO BE EXCESSIVE FOR A BUCKET MEANS OF DIVERSION.

V100 VM51THE CLAIMED VOLUME APPEARS TO/MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V105 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 2.30 ACRE-FEET.

**** VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 63 GPD PER ANIMAL UNIT.

V111 VM51THE CLAIMED VOLUME CANNOT BE CONFIRMED DUE TO LACK OF DATA.

b. Claimed Volume Appears Inadequate. If the claimed volume, for a right to be decreed a volume, appears inadequate for the claimed use or compared to available data, contact the claimant. Volumes should not be raised arbitrarily through claimant contact to the guidelines. The guidelines are strictly a tool to trigger the need for further review. The volume should be based on a reasonable number of animal units and reasonable number of 24-hour days. If the volume is amended, the new volume figure should be checked as reasonable compared to the number of hours per day required to deliver the volume.

If claimant contact is inconclusive, add the following remark to the department's examination report.

Example: V45 VM51THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

c. No Volume Claimed. If no volume was claimed for a right to be decreed a volume, contact the claimant. If a

volume is not submitted, check that the volume is expressed as "0.00" on the worksheet and add a "KEEP" flag to the right of the volume. Add the following remark to the department's examination report.

Examples: V90 VM51NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 2.00 ACRE-FEET PER YEAR.

V95 VM51NO VOLUME HAS BEEN CLAIMED.

d. Claimed Volume Not Numerically Quantified.

When a claimed volume states "All" or a portion of "ALL" (e.g. "½ of ALL") for a right to be decreed a volume, follow the procedures as described in "Domestic: Volume: Claimed Volume Not Numerically Quantified".

C. POINT OF DIVERSION AND MEANS OF DIVERSION

1. Point Of Diversion. Most examination procedures for the point of diversion are described in "Claim Examination: Point of Diversion."

The point of diversion (POD) for stockwater use is defined as the location where water is diverted from the source. The place of use for stockwatering is defined as where the stock drink the water. As a result, each POD legal land description for stock drinking directly from the source should have a corresponding and identical POU legal land description.

When reviewing claims to stock drinking directly from a source, it may be necessary to change the POU or POD legal land descriptions to make them identical. Changes in legal land descriptions may be based on the claimant's map, USGS maps, or an aerial photograph. Conflicting data or a confusing claim file may make it necessary to contact the claimant for clarification.

Ditch Direct With Headgate. Some stockwater claims combine diversion methods, such as a headgate and ditch with stock drinking directly from the ditch. The point of diversion land description will be the location of the headgate (or where the ditch diverts water from the source). The POD land description will usually not be identical to the POU land description on such claims.

2. Means Of Diversion. Most examination procedures for the means of diversion are described in "Claim Examination: Means of Diversion." These procedures include making the means of diversion codes consistent with other claims using the same diversion. Because the stockwater claim form offers a different set of diversion choices than the irrigation claim form, there are a number of means of diversion inconsistencies involving stockwater and irrigation claims. Special attention should be paid to means of diversion consistency when reviewing stockwater claims.

The means of diversion for stock drinking directly only from an onstream reservoir should be "DM" to identify the dam as the means of diversion. If stock are drinking from stream channels above or below the reservoir as well as from the reservoir itself, the means of diversion should be "DM" for the reservoir point of diversion and "LS" for the stock drinking direct diversion.

3. Changing Point Of Diversion And Means Of Diversion. In addition to the authorized changes stated in "Claim Examination: Point Of Diversion" and "Means Of Diversion," the claimed POD or means of diversion on stockwater claims may be changed by the department during the examination to make POD and POU identical for direct instream use.

Authorized changes may be made directly on the worksheet. When the claimed POD or means of diversion is changed so that the decree abstract will differ from the claim form or amendment, make a

notation of the change by placing an asterisk in the left brackets at the margin of the worksheet next to the change. An exception to using an asterisk is a change from "LS" to "DM". This change only requires a check mark in the blank at the left margin of the worksheet.

D. PLACE OF USE (POU)

The place of use (POU) for stockwater claims is where the stock drink the water. No acreage figure will be associated with a stockwater place of use. If an acreage figure appears on the abstract, it should be crossed out.

Procedures for identifying stockwater places of use are mostly similar to those for irrigation places of use as described in "Irrigation: Place of Use."

Places of use for stock drinking directly from the source ("instream" use) will be identical to the POD. It may be necessary to change the POD or POU on such claims to make them identical. Such changes can be made without claimant contact, directly on the examination worksheet. When the claimed POU is changed, make a notation of the change by placing an asterisk in the left margin of the worksheet next to the change.

Overlapping Ownership. The stockwater place of use will not be recorded on mylar. As a result, there is no systematic method of identifying overlapping ownerships involving stock claims or a stock and irrigation claim. If an ownership overlap situation is detected, refer to "Irrigation: Place of Use: Place of Use Issues" section for appropriate procedures.

Supplemental Rights. No review for or identification of supplemental relationships will be made for stockwater claims.

V. STANDARD EXAMINATION REMARKS

This chapter contains a guide to standard examination remarks. The guide is in sections arranged alphabetically by remark code.

Within each section, the example remarks are assigned reference numbers. Reference numbers act as an abbreviated method for entering remarks without having to write out the entire remark. Remarks describing specific or unique situations do not have reference numbers. These remarks are identified with a **** and must be fully written out.

The example remarks in each section are divided into two major categories:

Explanatory Remarks. This category contains remarks which explain an aspect or feature pertinent to a claimed element. Such as, identifying a secondary point of diversion (PD) or a limited period of use agreement (PE). This category also includes remarks required by the claim examination rules such as identification of a multiple use situation (MU).

Remarks in this category will appear in Part A of the department's summary report and outside the issue box of the decree abstract.

Issue Remarks. This category contains remarks identifying unresolved issues for consideration by the water court and other parties reviewing the decree.

Remarks in this category will appear in Part B of the department's summary report and in the issue box of the decree abstract.

Following each example remark or at the end of a remark code section, reference is made to the areas in the manual where the possible need for the remark is discussed.

For remarks to print remarks in the appropriate location and in the correct order on documents, remarks must be identified with the proper code. The code consists of four digits -- a two letter remark code (e.g., "PU" or "SN") followed by a two digit number (e.g., "01" or "51"). For example, a remark coded "PU01" would appear directly below Purpose. A remark coded "SN01" would appear below Source. A remark coded "PL51" is a place of use issue and would appear in the issue box of a decree abstract.

- Figure V-1 lists the various two letter remark codes which may be used during examination. The codes are organized by the water right element under which the remarks will appear when printed.

- Explanatory remarks are numbered 01 to 50 and issue remarks are numbered 51 to 99.
- The two-digit number establishes the order in which the remarks are printed, e.g., 51 will be printed above 53.
- Remarks numbered in sequence (PL01, PL02) will be printed together as one remark.
- When more than one remark is needed for a particular remark code (e.g., "PL") and each remark represents an individual thought, then skip a number between remark codes (PL01, PL03) and a space will be printed between the remarks.

There are several methods by which remarks can be prepared for entering into the data base.

Reference Number Remarks. Use Form WR17-A for coding any of the reference number remarks found throughout the manual. Complete the Reference Number, the Remark Code & Number, and the Specific Data. The specific data is the highlighted text within the remark.

For those remarks followed by a list of water right numbers, such as the Decree Exceeded remark (D5), the amount of water right numbers which may be coded is unlimited.

Coined Remarks. Use Form WR17-B for coding remarks which do not have reference numbers. Complete the Remark Code & Number. Print the coined remark in its entirety under Remark Text. More than one line may be used to print the remark.

Wording of the example remarks is suggested but not rigidly required. Different situations may require slightly different wording. New remarks should be sent to the program manager as possible additions to the list of acceptable remarks.

Review Abstracts. Reference number remarks or coined remarks can be written on the review abstract. This can be done when the reviewer is checking the review abstract against the examination worksheet.

For ease of use, any remark followed by a list of water right numbers, such as the multiple use remark (M10), should list the water right numbers on the code sheet in numerical order.

FIGURE V-1

EXAMINATION MANUAL REMARK CODES

The following is a guide to the remark codes to be used during examination. The codes are organized by the water right element with which the remarks will appear on the department's summary report or the decree abstract.

OWNER

DE	Decree exceeded
OW	Owner

PURPOSE

PU	Purpose
----	---------

SOURCE

SN	Source name
----	-------------

PRIORITY DATE

PR	Priority date
----	---------------

FLOW RATE

FR	Flow rate
----	-----------

VOLUME

VM	Volume
----	--------

MAXIMUM ACRES

MA	Maximum acres
----	---------------

PERIOD OF USE

PE	Period of use
----	---------------

POINT OF DIVERSION

CV	Conveyance facility
CX	Ditch name
DM	Diversion means
PD	Point of diversion
TI	Interbasin transfer

RESERVOIR

RN	Reservoir
----	-----------

PLACE OF USE

PL	Place of use
----	--------------

FIGURE V-1 (cont.)

GENERAL - These remarks will appear at the end of the department's summary report or decree abstract.

AM	Amended claim
AS	Associated Rights
CI	Implied claim
CL	Clarification of land description
CT	Change text
DU	Duplication
FI	Fee insufficient
GA	Gray area (for water court and late claims use only)
GI	General information
LC	Late claim
MU	Multiple use
SB	Subdivision (title included on abstract)
SR	Supplemental rights
TC	Terminated claim suppresses all other remarks except GI
TR	Transfer

UNPUBLISHED - These remarks will only appear on internally generated documents and on data access screens.

MS	Miscellaneous
RM	General remark
ST	Source type

TEMPORARY - These remarks are used by the DNRC or the water court for specific situations where the need for a remark is generally short term. Temporary remarks have been assigned a specific block of reference numbers and are maintained by the Helena central office. The remark code and language is replaced when another temporary remark is needed.

OBSOLETE

IU	Incidental use	(IU remarks have been converted to PU01 remarks)
NR	No right	(NR remarks have been converted to GA51 remarks)

AMENDED CLAIM (AM)

Reference
Number

Description

Decree Abstract Remarks.

Added to denote an amendment made by the claimant.

- A5 AM01THE PERIOD OF USE WAS AMENDED BY THE CLAIMANT ON MM/DD/YY.
- A15 AM01THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON MM/DD/YY: FLOW RATE, VOLUME, MAXIMUM ACRES, PLACE OF USE.
(Note: Two or more elements can be coded.)

Department's Examination Report Remarks.

For identifying unresolved issues.

- A19 AM51AN AMENDMENT WAS SUBMITTED ON MM/DD/YY REQUESTING TO AMEND THE VOLUME TO 2.00 ACRE-FEET. DNRC REQUESTED A SIGNED AND NOTARIZED AMENDMENT FORM BE SUBMITTED. THE AMENDMENT HAS NOT BEEN IMPLEMENTED AS IT HAS NOT BEEN PROPERLY FILED.
- A20 AM51AN AMENDMENT WAS SUBMITTED ON 12/08/85 WHICH HAS NOT BEEN IMPLEMENTED. THIS AMENDMENT WAS NOT SUBMITTED BY THE OWNER LISTED IN THE DNRC RECORDS.
- A25 AM51AN AMENDMENT WAS SUBMITTED ON 02/08/87. THE AMENDMENT WAS NOT IMPLEMENTED DUE TO DISAGREEMENT AMONG THE OWNERS OF RECORD.
- A26 AM51AN AMENDMENT WAS SUBMITTED ON MM/DD/YY REQUESTING TO AMEND THE POINT OF DIVERSION AND PLACE OF USE. AS THIS IS A DECREED BASIN, THE AMENDMENT HAS NOT BEEN IMPLEMENTED.

Manual Reference: XI.A.

ASSOCIATED RIGHTS (AS)

Reference
Number

Description

Decree Abstract Remarks.

Use to input information into the computer claim file to identify associated relationships.

- A30 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. E000000-00. THEY ARE BASED ON THE SAME HISTORIC WATER RIGHT. [Man. Ref. VI.C.]
- A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME POINT OF DIVERSION/ RESERVOIR/POTHOLE LAKE. W000000-00, E000000-00, C000000-00, P000000-00. [Man. Ref. VI.C., VI.F., VI.H. VI.I.]
- A40 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. P000000-00. THEY HAVE OVERLAPPING PLACES OF USE. [Man. Ref. VI.C., VII.D., VIII.D., IX.D., X.C.]

IMPLIED CLAIMS (CI)

Reference
Number

Description

Decree Abstract Remark.

Added to document the authority and source of data for generating an implied claim.

- C5 CI01THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. W000000-00.
- C7 CI01THIS IMPLIED CLAIM WAS CREATED BASED ON INFORMATION IN CLAIM NO. W000000-00, PRIOR TO WATER COURT AUTHORIZATION BEING REQUIRED.

Department's Examination Report Remarks.

For identifying unresolved issues.

- C8 CI51PURSUANT TO 1982 POLICY, THIS IMPLIED CLAIM WAS GENERATED BASED ON INFORMATION IN CLAIM NO. W000000-00. CURRENT POLICY NOW REQUIRES IMPLIED CLAIMS BE AUTHORIZED BY THE WATER COURT. ON MM/DD/YY, A REQUEST FOR AUTHORIZATION TO CREATE AN IMPLIED CLAIM WAS SENT TO THE WATER COURT. AS OF MM/DD/YY, NO RESPONSE HAS BEEN RECEIVED FROM THE WATER COURT.
- C9 CI51IT APPEARS MORE THAN ONE WATER RIGHT MAY BE INVOLVED. ON MM/DD/YY, A REQUEST FOR AUTHORIZATION TO CREATE AN IMPLIED CLAIM WAS SENT TO THE WATER COURT. AS OF MM/DD/YY, NO RESPONSE HAS BEEN RECEIVED FROM THE WATER COURT.

Manual Reference: XI.B.

CLARIFICATION OF LAND DESCRIPTION (CL)

Reference
Number

Description

Decree Abstract Remarks.

For retaining claimed information relating to both the POD and POU. Use a PD or PL remark if the information relates to only one of these two elements.

C10	CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN GOVT LOTS 3 AND 4 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY.
C15	CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.
C25	CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN VICTORY LODGE, MINERAL SURVEY NO. 0000.
C40	CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES LOTS 5, 6 AND 7 OF GRUBER ESTATES, FIRST ADDITION. CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES MINERAL SURVEY NO. 9383.
C55	CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8736. CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.
C60	CL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION HAS BEEN ESTIMATED.
C64	CL01THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE FORT PECK INDIAN RESERVATION.

Manual Reference: VI.E.

CHANGE IN APPROPRIATION RIGHT (CT)

Reference
Number

Description

Decree Abstract Remarks.

Added, usually by the new appropriations staff, to any water right where a change has been filed with the department.

(For claims, permits, certificates, Powder River, exempt rights)

CA01 CT01APPLICATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE RECEIVED MM/DD/YY. SEE G(W)084730-00.

CA03 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE ISSUED MM/DD/YY. NOTICE OF COMPLETION DUE MM/DD/YY. SEE G(W)034572-00.

CA04 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION (16 GPM UP TO 12 ACRE-FEET) ISSUED MM/DD/YY. NOTICE OF COMPLETION DUE MM/DD/YY.

(For claims)

CA07 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE G(W)028371-00.

CA09 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION (16 GPM UP TO 12 ACRE-FEET) COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

CA11 CT01REPLACEMENT WELL - AUTHORIZATION TO CHANGE ISSUED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

CA13 CT01REPLACEMENT WELL - AUTHORIZATION TO CHANGE A PORTION 16 GPM UP TO 12 ACRE-FEET, ISSUED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

CHANGE IN APPROPRIATION RIGHT (CT) (cont.)

<u>Reference Number</u>	<u>Description</u>
C95	CT01AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.
C100	CT01AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION, 16 GPM UP TO 12 ACRE-FEET, COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

(For permits, certificates, Powder River, exempt rights)

CT01REPLACEMENT WELL - FILE REFLECTS AUTHORIZATION TO CHANGE ISSUED MM/DD/YY.

CT01REPLACEMENT WELL - FILE REFLECTS AUTHORIZATION TO CHANGE A PORTION (56 GPM UP TO 126 ACRE-FEET) ISSUED MM/DD/YY.

CT01FILE REFLECTS AUTHORIZATION TO CHANGE (POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE) COMPLETED MM/DD/YY. SEE G(P)023846-00.

CT01FILE REFLECTS AUTHORIZATION TO CHANGE THE (POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION (83 GPM UP TO 123 ACRE-FEET) COMPLETED MM/DD/YY.

CT01FILE REFLECTS AUTHORIZATION TO CHANGE (SEVER/SELL) OWNERSHIP AND (POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE) COMPLETED MM/DD/YY.

CT01FILE REFLECTS AUTHORIZATION TO CHANGE (SEVER/SELL) OWNERSHIP AND (POINT OF DIVERSION, PLACE OF USE, PURPOSE, AND PLACE OF STORAGE) OF A PORTION (16 GPM UP TO 12 AC-FT) COMPLETED 12/07/84.

NOTE: When reviewing a claim with an associated change, the status of the change should be denoted with a remark. Depending on the status, the remark code may be "CT", "MS", and/or "OW". Refer to Figure XI-11 in "Special Provisions: Change In Appropriation Right" section for a complete listing of all remarks associated with changes.

Manual Reference: XI.F.

CONVEYANCE FACILITY (CV)

Reference
Number

Description

Decree Abstract Remarks.

To clarify a unique point of diversion feature.

C120	CV01WATER DIVERTED FROM WESTENBERG RIVER IS CONVEYED TO CARPENTER CREEK WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWSWSE SEC 23 TWP 99S RGE 99E DAKOTA COUNTY.
C121	CV01WATER DIVERTED FROM NELSON CREEK IS CONVEYED TO WHEELER CREEK WHICH IS USED AS A NATURAL CARRIER TO CONVEY WATER TO THE PLACE OF USE.
C125	CV01WATER RELEASED FROM CLIFF RESERVOIR USES INDIAN CREEK AS A NATURAL CARRIER TO CONVEY WATER TO A SECONDARY POINT OF DIVERSION IN THE NWNWNW SEC 15 TWP 01N RGE 15E DAKOTA COUNTY.
C126	CV01WATER RELEASED FROM CLIFF RESERVOIR USES INDIAN CREEK AS A NATURAL CARRIER TO CONVEY WATER TO THE PLACE OF USE.
****	CV01WATER STORED UNDER THIS RIGHT IS RELEASED FROM LOWER THREEMILE RESERVOIR AND IS DIVERTED FROM THREEMILE CREEK AT THE FOLLOWING SECONDARY POINTS OF DIVERSION: NENWSE SEC 10 TWP 40E RGE 03S, NWSENE SEC 10 TWP 40E RGE 03S AND SWSWNW SEC 11 TWP 40E RGE 03S, BIG HORN COUNTY.
****	CV01WATER DIVERTED FROM COLLECTION DITCH IS CONVEYED TO CROW CREEK WHICH IS USED AS A NATURAL CARRIER TO SECONDARY POINTS OF DIVERSION IN THE NESWNW SEC 20 TWP 05N RGE 02E (BROADWATER MISSOURI CANAL) AND THE NWSWNW SEC 16 TWP 05N RGE 02E (L. SMITH DITCH).
C127	CV01WATER FROM PRICKLY PEAR DITCH IS CONVEYED THROUGH COMPANY SLOUGH DITCH TO THE PLACE OF USE.
C130	CV01TANK TRUCK USED TO CONVEY WATER.
C135	CV01THIS WATER RIGHT IS USED IN A MANIFOLDED GROUNDWATER SYSTEM IN CONJUNCTION WITH WATER RIGHT NO(S). W111111-00, W222222-00 AND W999999-00.
C140	CV01THIS WATER RIGHT CONSISTS OF THREE SPRINGS USED IN A MANIFOLDED GROUNDWATER SYSTEM.

CONVEYANCE FACILITY (CV) (cont.)

Reference
Number

Description

Department's Examination Report.

For identifying unresolved issues.

C141	CV01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT DIVERT GROUNDWATER BY MEANS OF A MANIFOLD SYSTEM CONSISTING OF THREE WELLS. W000001-00, W000002- 00, W000003-00.
C145	CV51USE OF THE JOHNSON DITCH TO CONVEY WATER TO THE PLACE OF USE MAY BE QUESTIONABLE.
C150	CV51THE CLAIMED CONVEYANCE DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
C155	CV51THE CONVEYANCE DITCH HAS BEEN SEVERED BY HIGHWAY CONSTRUCTION AND CANNOT CONVEY WATER FROM THE SOURCE TO THE PLACE OF USE.
****	CV51CASE NO. 1053, BEAVERHEAD COUNTY, DECREED THIS RIGHT AS BEING CONVEYED IN THE CARICO DITCH. THIS IS INCONSISTENT WITH THE CLAIMED DITCH SYSTEMS WHICH CONVEY WATER ON THE OPPOSITE SIDE OF THE BEAVERHEAD RIVER.

Manual Reference: VI.F.

CONVEYANCE (DITCH) NAME (CX)

Reference
Number

Description

Decree Abstract Remarks.

Use to retain a ditch name and to establish the data and system for generating an index of conveyance facility (ditch) names.

Use the following format when only one ditch name is to be retained on a claim with a single POD.

C160

CX01REID DITCH
CX01BUNKHOUSE WASTE DITCH
CX01WARREN DITCH (STORAGE)

Printed on the decree abstract as:

DITCH NAME: REID DITCH
DITCH NAME: BUNKHOUSE WASTE DITCH
DITCH NAME: WARREN DITCH (STORAGE)

C161

CX01FARMERS CANAL
CX01STONE CANAL (STORAGE)

Printed on the decree abstract:

DITCH NAME: FARMERS CANAL
DITCH NAME: STONE CANAL (STORAGE)

Use the following format when one or more ditch names are associated to a claim with multiple POD's. The number in the remark text must match the diversion record number for the respective POD.

C165

CX0101-FRAZIER DITCH
CX0302-ADAM-SMITH DITCH

Printed on the decree abstract as:

DITCH NAME FOR DIVERSION NO. 01 IS:
FRAZIER DITCH

DITCH NAME FOR DIVERSION NO. 02 IS:
ADAM-SMITH DITCH

CONVEYANCE (DITCH) NAME (CX) (cont.)

<u>Reference Number</u>	<u>Description</u>
C166	CX0101-FARMERS CANAL CX0302-STONE CANAL

Printed on the decree abstract as:

DITCH NAME FOR DIVERSION NO. 01 IS:
FARMERS CANAL

DITCH NAME FOR DIVERSION NO. 02 IS:
STONE CANAL

Manual Reference: VI.F.

DECREE EXCEEDED (DE)

Reference
Number

Description

Department's Examination Report Remark.

Add to every claim in a decree exceeded situation.

D5

DE51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT
ARE FILED ON THE SAME FORMERLY DECREED WATER
RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS
THE 150 MINER'S INCHES DECREED IN CASE NO. 9999,
RAVALLI COUNTY. W000000-00, W000000-00,
W000000-00.

DE51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT
ARE FILED ON THE SAME FORMERLY DECREED WATER
RIGHT. THE SUM OF THE CLAIMED VOLUMES EXCEEDS THE
325 ACRE-FEET DECREED IN CASE NO. 3872 RAVALLI
COUNTY. W000000-00, W000000-00, W000000-00.

Manual References: VII.B., VIII.B., IX.A., X.B.

MEANS OF DIVERSION (DM)

Reference
Number

Description

Decree Abstract Remarks.

Use to identify additional means of diversion or in conjunction with "XX" means of diversion code when no standard code exists.

D10 DM01BUCKET USED AS AN ADDITIONAL MEANS OF DIVERSION.

D15 DM01MEANS OF DIVERSION INCLUDES A PIPELINE AND SLUICE BOX.

D20 DM01MEANS OF DIVERSION INCLUDES A SLUICE BOX, BUCKET, OR OTHER CONTAINER.

D25 DM01THE MEANS OF DIVERSION IS A FLUME.

For retaining claimed data that cannot be stored in the computer means of diversion field.

D35 DM01PUMP IS SECONDARY MEANS OF DIVERSION.

D36 DM01PUMP LOCATED IN THE SENWSW SEC 08 TWP 09S RGE 22E IS A SECONDARY MEANS OF DIVERSION.

D40 DM01WATER COLLECTED IN ANDERSON-MOE DITCH.

D45 DM01WATER COLLECTED IN FOSTER WASTE DITCHES IN THE N2 SEC 05 TWP 07N RGE 16E WHEATLAND COUNTY.

D46 DM01WATER IS COLLECTED AT VARIOUS LOCATIONS ALONG THE MUTUAL DITCH FROM NENENE SEC 14 TWP 10N RGE 21E TO NESESW SEC 20 TWP 11N RGE 22E GOLDEN VALLEY COUNTY.

Department's Examination Report Remarks.

For identifying unresolved issues.

D50 DM51THE CLAIMED MEANS OF DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

D55 DM51THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A PUMP.

**** DM51MEANS OF DIVERSION NO. 3 APPEARS TO BE INCORRECT. LOCAL RESIDENTS HAVE IDENTIFIED A DRAIN DITCH.

D65 DM51THE CLAIMED MEANS OF DIVERSION APPEARS TO/MAY BE INCORRECT AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

MEANS OF DIVERSION (DM) (cont.)

<u>Reference Number</u>	<u>Description</u>
D70	DM51TWO SEPARATE MEANS OF DIVERSION HAVE BEEN CLAIMED FOR THE POINT OF DIVERSION IN THE SESESE SEC 12 TWP 99N RGE 99E MANITOBA COUNTY.
D75	DM51THE CLAIMS FOLLOWING THIS REMARK CLAIM DIFFERENT MEANS OF DIVERSION FOR WHAT APPEARS TO BE A SINGLE POINT OF DIVERSION IN THE NWNWNW SEC 36 TWP 99S RGE 99W IDAHO COUNTY. W000000-00, W000000-00, W000000-00.
D80	DM51NO MEANS OF DIVERSION WAS CLAIMED.

Manual Reference: VI.G., IX.C.

DUPLICATION (DU)

Reference
Number

Description

Department's Examination Report Remarks.

Add to every claim that appears to be duplicated by another claim.

- D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. [Man. Ref. VI.J., VII.E.]
- D91 DU51CLAIM NOS. W000000-00 AND W999999-00 APPEAR TO BE DUPLICATE CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. CLAIM NO. W000000-00 REFLECTS A PRIORITY DATE OF AUGUST 29, 1905 AND CLAIM NO. W999999-00 REFLECTS A PRIORITY DATE OF SEPTEMBER 15, 1908. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. [Man. Ref. VI.J.]
- D92 DU51THIS CLAIM AND WATER RIGHT NO. P000000-00 APPEAR TO BE REDUNDANT/DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. [Man. Ref. VI.J.]
- D93 DU51CLAIM NOS. W000000-00 AND W000000-00 MAY BE REDUNDANT CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. [Man. Ref. VI.J., VII.E.]
- D94 DU51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE REDUNDANT/DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. W000000-00, W000000-00, C000000-00. [Man. Ref. VI.J.]
- Add to a claim filed by an individual on a water right claimed by a water service organization.
- D95 DU51THIS CLAIM APPEARS TO DUPLICATE CLAIM NO. W000000-00 FILED BY THE NORTH CHINOOK IRRIGATION ASSOCIATION. [Man. Ref. VII.D, VII.F.]
- D100 DU51CLAIM NOS. W109696-00 AND W109698-00 ARE REDUNDANT CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. CLAIM NO. W109696-00 REFLECTS THE POST 1973 RIGHT AS AUTHORIZED BY G(W)109696-00. IT APPEARS ONLY ONE WATER RIGHT, W109698-00, IS INVOLVED. [Man. Ref. XI.F.]

FEE INSUFFICIENT (FI)

Reference
Number

Description

Department's Examination Report Remarks.

For identifying an insufficient filing fee for an ownership. Add the remark to all claims involved.

F5	FI51FILING FEE INSUFFICIENT TO COVER CLAIM. TOTAL AMOUNT DUE \$40.00. [Man. Ref. VI.A.]
F10	FI51FILING FEE INSUFFICIENT TO COVER CLAIMS. TOTAL AMOUNT DUE \$120.00 FOR CLAIM NOS. W000000-00, W000000-00, W000000-00. [Man. Ref. VI.A.]
F15	FI51FILING FEE INSUFFICIENT TO COVER IMPLIED CLAIM. TOTAL AMOUNT DUE \$40.00. [Man. Ref. XI.B.]
F20	FI51FILING FEE INSUFFICIENT TO COVER IMPLIED CLAIMS. TOTAL AMOUNT DUE \$80.00 FOR CLAIM NOS. W000000-00, W000000-00. [Man. Ref. XI.B.]
F25	FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$40.00. [Man. Ref. VI.A., XI.C.]
F30	FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIMS. TOTAL AMOUNT DUE \$80.00 FOR CLAIM NOS. W000000-00, W000000-00. [Man. Ref. VI.A., XI.C.]
F35	FI51PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00. [Man. Rev. VI.A., XI.C.]

FLOW RATE (FR)

Reference
Number

Description

Decree Abstract Remarks.

The following remarks are added by the computer, but not stored in the computer record.

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.
[Man. Ref. VII.B., VII.F., VIII.B., IX.A., X.B.]

NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.
[Man. Ref. VII.B.]

NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL SUBIRRIGATION. [Man. Ref. VII.B.]

NO FLOW RATE HAS BEEN DECREED FOR THIS NATURAL OVERFLOW METHOD OF IRRIGATION. [Man. Ref. VII.B.]

NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. [Man. Ref. IX.A.]

Remark added by the computer to filed and use irrigation claims > 17 gpm/acre.

FR01THE FLOW RATE OF THIS WATER RIGHT HAS BEEN REDUCED TO THE 17 GPM PER ACRE GUIDELINE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION.
[Man. Ref. VII.B.]

For retaining claimed data.

F40	FR01COMPUTER RECORD CAPACITY FOR FLOW RATE FILLED. FLOW RATE IS 186,699.00 CFS. [Man. Ref. VII.B., VII.F., X.B.]
F41	FR01PRIMARILY A DIRECT FLOW SYSTEM; FLOW RATE RETAINED. [Man. Ref. VII.B., VII.F.]
F45	FR01ENTIRE FLOW OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.
F50	FR01THIS RIGHT IS FOR ONE FOURTH THE FLOW OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.
F56	FR01ENTIRE/ONE FOURTH THE FLOW OF CLEAR CREEK.

FLOW RATE (FR) (cont.)

<u>Reference Number</u>	<u>Description</u>
F60	FR01THE WATER RIGHTS FOLLOWING THIS STATEMENT HAVE AN UNDIVIDED INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM. W000000-00, W999999-00, W888888-00.
F65	FR01UNDIVIDED 1/3 INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM.
F75	FR01CASE NO. 9999, BROADWATER COUNTY DECREES THIS RIGHT AS AN UNDIVIDED 1/3 INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM.
F76	FR01THE WATER RIGHTS FOLLOWING THIS STATEMENT HAVE AN UNDIVIDED INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM AS DECREED IN CASE NO. 6767, BROADWATER COUNTY. W000001-00, W000002-00, W000003-00.
F78	FR01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT USE THE SAME PUMP. THE COMBINED FLOW RATE FOR THESE RIGHTS IS LIMITED TO THE HISTORICAL PUMP CAPACITY. W000000-00, W111111-00, W123456-00.

Department's Examination Report Remarks.

For identifying unresolved issues.

Applied by computer standards program to decreed irrigation claims > 33.7 gpm/acre.

FR51THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS _____ GPM PER ACRE. [Man. Ref. VII.B., VII.F.]

Applied manually:

F85	FR51THE CLAIMED FLOW RATE WAS NOT EXAMINED AS NO FLOW RATE GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES. [Man. Ref. VI.C., X.B.]
F90	FR51THE CLAIMED FLOW RATE EXCEEDS THE 150 MINER'S INCHES OF CROOKED CREEK DECREED IN CASE NO. 0000, TETON COUNTY.
F91	FR51CASE NO. 9999, MADISON COUNTY, DOES NOT SPECIFY A FLOW RATE; CLAIMED FLOW RATE RETAINED.
****	FR51CASE NO. 0000, GALLATIN COUNTY, DECREES A FLOW OF 150 MINER'S INCHES; NO FLOW RATE WAS CLAIMED.

FLOW RATE (FR) (cont.)

<u>Reference Number</u>	<u>Description</u>
F93	FR51CASE NO. 9999, RAVALLI COUNTY, DOES NOT SPECIFY A FLOW RATE; NO FLOW RATE HAS BEEN CLAIMED.
F95	FR51CASE NO. 0000, BLAINE COUNTY, DECREES THE FLOW RATE AS MEASURED AT THE PLACE OF USE. THE FLOW RATE AT THE POINT OF DIVERSION IS UNKNOWN.
****	FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT. CASE NO. 0000, GRANITE COUNTY, SPECIFICALLY DECREES A FLOW RATE OF ONE MINER'S INCH PER ACRE. [Man. Ref. VII.B., VII.F.]
****	FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT. CASE NO. 9999, RAVALLI COUNTY, SPECIFICALLY DECREES 90.00 ACRES TO THIS RIGHT. [Man. Ref. VII.B., VII.F.]
F110	FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT. [Man. Ref. VII.B., VII.F.]
F120	FR51THE CLAIMED FLOW RATE EXCEEDS THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM WHICH IS 1.80 CFS.
****	FR51THE CLAIMED FLOW RATE EXCEEDS THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM WHICH IS ESTIMATED TO BE 1.80 CFS.
F135	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.
F145	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF 2.50 CFS.
F150	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE PUMP CAPACITY. AVAILABLE DATA SUPPORT A FLOW RATE OF 98.50 GPM.
****	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE GRAVITY FLOW DELIVERY SYSTEM. THE ACTUAL FLOW RATE APPEARS TO BE 88.50 GPM.
****	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE DITCH CAPACITY. AVAILABLE DATA SUGGEST THE DITCH CAPACITY IS 2.75 CFS.

FLOW RATE (FR) (cont.)

<u>Reference Number</u>	<u>Description</u>
F170	FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED.
****	FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED. THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE ALL BASED ON THE SAME HISTORIC WATER RIGHT. W000000-00, W000000-00, W000000-00.
F172	FR51NO QUANTIFIED FLOW RATE WAS CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM. [Man. Ref. VIII.B., IX.A.]
F175	FR51THE FLOW RATE MAY BE INCORRECT. ALL PARTIES IN THIS UNDIVIDED FLOW RATE INTEREST GROUP CANNOT BE IDENTIFIED. THE SUM OF THE UNDIVIDED INTEREST PORTIONS EQUALS 80 %.
F176	FR51THE UNDIVIDED INTEREST PORTION OF THIS CLAIM MAY BE INCORRECT. THE SUM OF THE PORTIONS FOR THE CLAIMS IN THIS UNDIVIDED INTEREST EQUALS 143 %.
F177	FR51THE FLOW RATE OF THIS CLAIM MAY BE INCORRECT. THE PARTIES IN THIS UNDIVIDED INTEREST GROUP HAVE CLAIMED DIFFERENT FLOW RATES.
F180	FR51FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. [Man. Ref. VII.B., VII.D., VII.F.]
F185	FR51THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.
F190	FR51NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.
F195	FR51NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM. [Man. Ref. VIII.B., IX.A.]
****	FR51THE TOTAL FLOW RATE CLAIMED ON THE IRRIGATION DISTRICT FORM DOES NOT EQUAL THE SUM OF THE INDIVIDUAL CLAIMED RIGHTS. [Man. Ref. VII.F.]
F205	FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. VIII.B., IX.A.]

FLOW RATE (FR) (cont.)

<u>Reference Number</u>	<u>Description</u>
F210	FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A FLOW RATE OF 24 GPM. [Man. Ref. VIII.B., IX.A.]
F211	FR51THE CLAIMED FLOW RATE APPEARS EXCESSIVE FOR A BUCKET MEANS OF DIVERSION. [Man. Ref. VIII.B., X.B.]
F220	FR51THE CLAIMED FLOW RATE EXCEEDS THE ESTIMATED AVERAGE ANNUAL FLOW OF THE SOURCE (3.50 CFS). [Man. Ref. X.B.]
F225	FR51THE CLAIMED FLOW RATE APPEARS TO/MAY BE HIGH FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. X.B.]
F230	FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE REASONABLE AND CUSTOMARY FLOW RATE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT AN ACTUAL FLOW RATE OF 2.41 CFS. [Man. Ref. X.B.]
****	FR51US BUREAU OF MINES CIRCULAR NO. 8305 (1966) LISTS THE DIVERSION CAPACITY FOR THIS ORE PROCESSING FACILITY AT 400 GPM. [Man. Ref. X.B.]
F240	FR51THE CLAIMED FLOW RATE CANNOT BE CONFIRMED DUE TO A LACK OF DATA. [Man. Ref. X.B.]
F245	FR51THE CLAIMED FLOW RATE MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THIS CLAIM INDICATES A FLOW RATE OF 30 GPM. [Man. Ref. X.B.]
F250	FR51INFORMATION IN THE CLAIM FILE DESCRIBES A HISTORIC FLOW RATE OF 35 MINER'S INCHES AND A VOLUME OF 40 ACRE-FEET PER YEAR. [Man. Ref. X.B.]
F255	FR51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE CLAIMED FLOW RATE EXCEEDS THE CAPACITY OF THE CONVEYANCE SYSTEM. [Man. Ref. X.B.]
F260	FR51THE FLOW RATE FOR THIS WATER RIGHT WAS MEASURED AS 112 GPM DURING A FIELD INVESTIGATION CONDUCTED ON 09/27/87.

Manual References: VII.B. VII.F., VIII.B., IX.A., X.B.
(For FR Remarks With No Manual Reference)

GRAY AREA (GA)

During the verification phase of claim review, gray area remarks were used to identify issues. Gray area remarks are also added to decree abstracts by the water court. Do not change or delete a gray area remark authorized by a water master since July 15, 1987 without clearing it with the master.

GENERAL INFORMATION (GI)

Reference
Number

Description

Decree Abstract Remarks.

For presenting general information.

- G24 GI01THIS CLAIMED WATER RIGHT HAS BEEN WITHDRAWN AS IT
 WAS DUPLICATED BY WATER RIGHT NO. W000000-00.
 [Man. Ref. XI.E.]
- G25 GI01THIS CLAIMED WATER RIGHT HAS BEEN WITHDRAWN AND
 REPLACED BY WATER RIGHT NO. C999999-00.
 [Man. Ref. XI.E.]
- G26 GI01THE COMPLETE SET OF DOCUMENTATION, MAPS AND OTHER
 RELATED MATERIALS CAN BE OBTAINED BY REVIEWING
 FILE NO. W000000-00. [Man. Ref. VII.F.]

Department's Examination Report Remarks.

For presenting information pertaining to the claim or
claim file as a whole rather than to any individual
element or issue.

- G30 GI51A FIELD INVESTIGATION CONDUCTED ON 04/15/87 FOUND
 INFORMATION DIFFERENT FROM THAT CLAIMED FOR PLACE
 OF USE, POINT OF DIVERSION, AND FLOW RATE. SEE
 CLAIM FILE FOR ADDITIONAL INFORMATION.
 [Man. Ref. IV.F.]
 (Note: One or more element can be coded.)
- G32 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 41B.
 CLAIM WAS NOT INCLUDED IN THE BASIN 41C TEMPORARY
 PRELIMINARY DECREE ISSUED 11/14/90.
 [Man. Ref. VI.F.]
- G33 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43A AND
 WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE
 ISSUED 08/03/88. CLAIM WAS NOT INCLUDED IN THE
 BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED
 01/16/85. [Man. Ref. VI.F.]
- G34 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43B AND
 WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE
 ISSUED 01/16/85. [Man. Ref. VI.F.]
- G35 GI51CLAIM WAS NOT INCLUDED IN THE BASIN 40A TEMPORARY
 PRELIMINARY DECREE ISSUED 05/07/85.
 [Man. Ref. XI.B., XI.C.]

GENERAL INFORMATION (GI) (cont.)

Reference
Number

Description

G36

GI51 THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND
FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS
FOLLOWING THIS STATEMENT USE THE SAME FILED
APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED
FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE
TOTAL OF THE ORIGINAL APPROPRIATION. W000001-00,
W000002-00, W000003-00. [Man. Ref. VII.B.]

IMPLIED CLAIM (CI)
(Listed between AS and CL remarks)

INTERBASIN TRANSFER (TI)
(Listed between TC and TR remarks)

LATE CLAIM (LC)

Reference
Number

Description

Department's Examination Report Remarks.

For identifying unresolved issues or presenting information pertaining to a late claim.

L5	LC51CLAIM FILED LATE MM/DD/YY. IN 1992 THE MONTANA SUPREME COURT HELD THAT THE FAILURE TO FILE A WATER RIGHT BY APRIL 30, 1982 RESULTED IN THE FORFEITURE OF THE RIGHT. THE 1993 MONTANA LEGISLATURE PROVIDED FOR THE CONDITIONAL REMISSION OF THAT FORFEITURE. THIS CLAIM WILL BE PROCESSED IN ACCORDANCE WITH THE 1993 LEGISLATURE. SEE MONTANA CODE ANNOTATED SECTIONS 85-2-213, 85-2-221 AND 85-2-225. OBJECTIONS MAY BE FILED ON ALL ELEMENTS OF THIS CLAIM.
L10	LC51THIS LATE CLAIM IS IN A DRAINAGE WHICH MAY BE CLOSED TO FURTHER APPROPRIATION PURSUANT TO A COMPACT RATIFIED BY THE LEGISLATURE PRIOR TO JULY 1, 1993.
****	LC51IT IS UNCLEAR WHETHER THIS CLAIM SHOULD BE CONSIDERED LATE. THE MAP AND DOCUMENTATION WERE FILED ON 04/29/82. THE IRRIGATION CLAIM WAS INADVERTENTLY RETAINED BY THE CLAIMANT AND WAS FILED WITH THE DEPARTMENT ON 06/15/83.

Manual Reference: XI.C.

MAXIMUM ACRES (MA)

Reference
Number

Description

Department's Examination Report Remarks.
For identifying unresolved issues.

MA51 THE MAXIMUM ACRES CLAIMED MAY BE QUESTIONABLE.
THE SUM OF THE PARCEL ACRES IS 12,350.00. [Man.
Ref. VII.D.]

MISCELLANEOUS (MS)

Reference
Number

Description

Unpublished Remarks.

Use to input information into the computer claim file for internal use within the department, but will be suppressed from printing on the decree abstract or department's summary report.

M1	MS01 WATER RIGHT NO. ASSIGNED TO WATER COURT ON MM/DD/YY.
M5	MS01 AUTHORIZATION TO CHANGE ISSUED MM/DD/YY, REVOKED/TERMINATED MM/DD/YY. SEE T070116-00.
M6	MS01 APPLICATION TO CHANGE RECEIVED MM/DD/YY, TERMINATED/DENIED MM/DD/YY. SEE T073202-00/ N123204-00.

Manual Reference: XI.F.

MULTIPLE USE (MU)

Reference
Number

Description

Decree Abstract Remark.

Add to all claims in a multiple use relationship.

M10 MU01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT
ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF
THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE
THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES
THE RIGHT TO ALTERNATE AND EXCHANGE THE USE
(PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL
PRACTICES. W000000-00, W000000-00.

Department's Examination Report Remarks.

For identifying unresolved issues.

M20 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE
A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS
MAY NEED A MULTIPLE USE REMARK. W000000-00,
W000000-000.

M21 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE
A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS
HAVE STATED DIFFERENT FLOW RATES. IT APPEARS THE
FLOW RATE SHOULD BE THE CAPACITY OF THE PUMP.
W000000-00, W000000-00.

M22 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE
A MULTIPLE USE OF THE SAME RIGHT. IT APPEARS THE
PRIORITY DATE IS JUNE 11, 1884 AND THE TYPE OF
HISTORICAL RIGHT IS DECREED. W000001-00, W00000-
00.

Manual Reference: VI.C.

OWNERSHIP (OW)

Reference
Number

Description

Decree Abstract Remarks.

Added by the records section to appear on the decree abstract to document a split transfer.

- O3 OW01OWNER EDGAR RETAINED. CONTRACT FOR DEED INTEREST.
[Man Ref. XI.D.]
- O5 OW01TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER
RIGHT WILL BE SPLIT INTO SEPARATE OWNERSHIPS AFTER
FINAL DECREE. [Man. Ref. XI.D.]
- O15 OW01SEVER/SELL RECEIVED MM/DD/YY PROCESSED TO ADD
OWNERS. WATER RIGHT WILL BE SPLIT INTO SEPARATE
OWNERSHIPS AFTER FINAL DECREE. [Man. Ref. XI.F.]
(For proportional changes)
- O20 OW01SEVER/SELL RECEIVED MM/DD/YY PROCESSED TO CHANGE
OWNERS. [Man. Ref. XI.F.]
(For total ownership change)
- O25 OW01THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER
TITLE 85, CHAPTER 7, MCA. [Man. Ref. VII.F.]
- O30 OW01THIS WATER RIGHT WAS ESTABLISHED PURSUANT TO 89-
101 THROUGH 89-141 R.C.M. (1947) (REPEALED).
[Man. Ref. VII.F.]
- O31 OW01THIS WATER RIGHT WAS ORIGINALLY PERFECTED BY
PRIVATE OWNERSHIP AND LATER COMBINED WITH WATER
RIGHTS ESTABLISHED PURSUANT TO 89-101 THROUGH 89-
141 R.C.M. (1947) (REPEALED). [Man. Ref. VII.F.]

Department's Examination Report Remarks.

For identifying unresolved issues.

- O35 OW51CLAIM FORM NOT NOTARIZED. [Man. Ref. VI.B.]
- O40 OW51CLAIM FORM NOT SIGNED OR NOTARIZED.
[Man. Ref. VI.B.]
- O45 OW51CLAIM FORM SIGNED BY OTHER THAN CLAIMANT.
[Man. Ref. VI.B.]
- O50 OW51AS OF MM/DD/YY, THIS WATER RIGHT APPEARS TO BE
OWNED BY JOHN L. AND JANE W. DOE, 5793 BOXWOOD DR,
BOZEMAN, MT 59715. [Man. Ref. VI.B., XI.D.]

OWNERSHIP (OW) (cont.)

<u>Reference Number</u>	<u>Description</u>
O60	OW51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W000000-00, W999999- 00. [Man. Ref. VII.D.]
O65	OW51THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. THE PLACE OF USE APPEARS TO BE ON STATE LAND. [Man. Ref. VII.D.]
O70	OW51THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON FEDERAL LAND. [Man. Ref. VII.D.]
****	OW51PLACE OF USE IS ON CHAMPION INTERNATIONAL CORP. LAND AS INDICATED BY MAP IN FILE. [Man. Ref. VII.D.]
****	OW51DEER LODGE NATIONAL FOREST MAP/BLM RESOURCE MAP SHOWS PLACE OF USE IS OWNED BY USA (DEPT OF AGRICULTURE/DEPT OF INTERIOR BUREAU OF LAND MGMT). [Man. Ref. VII.D.]
O85	OW51PRAIRIE COUNTY RECORDS AS OF MM/DD/YY SHOWS PLACE OF USE IS OWNED BY USA (DEPT OF INTERIOR BUREAU OF LAND MGMT). [Man. Ref. VII.D.]
	OW51VALLEY COUNTY RECORDS AS OF MM/DD/YY SHOWS PLACE OF USE IS OWNED BY MOLVIG BROTHERS. [Man. Ref. VI.B.]

POINT OF DIVERSION (PD)

Reference
Number

Description

Decree Abstract Remarks.

For retaining claimed data that cannot be stored in the computer POD record.

- P3 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY. [Man. Ref. VI.E.]
- P4 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN GOVT LOT 8 IN SEC 13 TWP 16N RGE 15E JUDITH BASIN COUNTY. [Man. Ref. VI.E.]
- P5 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN VICTORY LODE, MINERAL SURVEY NO. 0000. [Man. Ref. VI.E.]
- P6 PD01THE POINT OF DIVERSION INCLUDES LOTS 8 AND 9 OF GRUBER ESTATES, FIRST ADDITION. [Man. Ref. VI.E.]
- PD01THE POINT OF DIVERSION INCLUDES MINERAL SURVEY NO. 8776. [Man. Ref. VI.E.]
- P7 PD01THE POINT OF DIVERSION IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8789. [Man. Ref. VI.E.]
- PD01THE POINT OF DIVERSION IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076. [Man. Ref. VI.E.]
- P8 PD01DIKE EXTENDS INTO THE NESW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY. [Man. Ref. VI.F.]
- P9 PD01DIKE EXTENDS INTO THE NWNWNE, NENENW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY. [Man. Ref. VI.F.]
- **** PD01POINT OF DIVERSION IS IN THE SENENW SEC 10 TWP 18N RGE 21E LEHMI COUNTY, IDAHO.
- P15 PD01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE POINT OF DIVERSION HAS BEEN ESTIMATED. [Man. Ref. VI.E.]
- P20 PD01DRAIN DITCH IS FED ALONG ITS FULL LENGTH BY UNDERGROUND SEEPS.
- P25 PD01POINT OF DIVERSION IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

POINT OF DIVERSION (PD) (cont.)

<u>Reference Number</u>	<u>Description</u>
P30	PD01POINT OF DIVERSION NO. 2 IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.
P35	PD01PUMP IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.
****	PD01WATER FROM DOG CREEK IS DIVERTED BY MEANS OF A 39- 149PIT LOCATED ADJACENT TO THE SOURCE.
****	PD01THE POINT OF DIVERSION IS WHERE THE SOURCE INTERSECTS THE BROADWATER-MISSOURI EAST SIDE CANAL WHICH IS USED TO CONVEY WATER TO THE PLACE OF USE.
 Department's Examination Report Remarks.	
For identifying unresolved issues.	
P36	PD51THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.
P37	PD51THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.
P38	PD51THE LEGAL LAND DESCRIPTION FOR POINTS OF DIVERSION NO. 1 AND 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THE CLAIMED POINTS OF DIVERSION CANNOT BE CONFIRMED.
****	PD51CLAIM STATES SEVERAL SMALL RESERVOIRS LOCATED WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION. EXACT LOCATIONS OF THE RESERVOIRS COULD NOT BE DETERMINED FROM INFORMATION IN THE CLAIM FILE.
P40	PD51THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SWSWSW SEC 30 TWP 99N RGE 99W ALBERTA COUNTY.
****	PD51IT APPEARS THAT POINT OF DIVERSION NO. 3 IS ACTUALLY IN THE SESESE SEC 1 TWP 20S RGE 35E WYOMING COUNTY.
P50	PD51THE POINTS OF DIVERSION APPEAR TO BE INCORRECT. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

POINT OF DIVERSION (PD) (cont.)

Reference
Number

Description

P55	PD51IT APPEARS POINT OF DIVERSION NO. 2 MAY BE INCORRECT. THE EXISTENCE OF A DIVERSION FACILITY AND CONVEYANCE DITCH CANNOT BE CONFIRMED FROM AVAILABLE DATA.
P57	PD51THE CLAIMED POINT OF DIVERSION MAY BE INCOMPLETE. IT APPEARS THERE SHOULD BE ADDITIONAL POINTS OF DIVERSION ON DEEP CREEK WHICH COULD NOT BE IDENTIFIED FROM INFORMATION IN THE CLAIM FILE.
P60	PD51THE CLAIMED POINT OF DIVERSION IS NOT THE INITIAL POINT THAT WATER IS DIVERTED FROM THE SOURCE. THE INITIAL POINT CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
P65	PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 3 HAS NOT BEEN USED SINCE 1958.
****	PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 2 IS INOPERABLE AND HAS NOT BEEN USED SINCE 1959.
****	PD51AN INTERSTATE USE OF WATER IS INVOLVED. POINT OF DIVERSION IS IN IDAHO.
P80	PD51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 POINT OF DIVERSION WAS IN THE NENENE SEC 10 TWP 12N RGE 03W LEWIS AND CLARK COUNTY.

Manual Reference: VI.F. (For PD Remarks With No Manual Reference)
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PERIOD OF USE (PE)

Reference
Number

Description

Decree Abstract Remarks.

For retaining claimed data that cannot be stored in the period of use computer array.

P95 PE01THE PERIOD OF DIVERSION FROM THE SOURCE INTO THIS RESERVOIR IS MARCH 1 THROUGH JULY 15.

P120 PE01THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF DEER CREEK.

P125 PE01CASE NO. 0000, LINCOLN COUNTY, LIMITS THIS RIGHT TO HIGH OR FLOOD WATERS OF MUSKRAT CREEK.

P126 PE01THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATERS OF BEAVER CREEK.

**** PE01CASE NO. 4680, FERGUS COUNTY, LIMITS THIS RIGHT TO DIVERSION FOR THREE OF EVERY TEN DAYS.

**** PE01CASE NO. 7643, LAKE COUNTY, DECREES A ROTATING SYSTEM FOR USE OF THIS RIGHT BETWEEN FIVE PARTIES. EACH PARTY IS DECREED USE OF THIS RIGHT FOR 48 HOURS OF EVERY 240 HOURS.

**** PE01CASE NO. 7608, LEWIS AND CLARK COUNTY, DECREES THE PERIOD OF USE AS THREE DAYS PER WEEK DURING THE MONTH OF MAY.

**** PE01CASE NO. 8799, LEWIS AND CLARK COUNTY, DECREES EACH RIGHT THE ENTIRE FLOW RATE OF DIRTY IKE CREEK FOR 48 HOURS EVERY 144 HOURS.

**** PE01CASE NO. 4379, RAVALLI COUNTY, REQUIRES THAT DIVERSION END AFTER MAY 11 OF EACH IRRIGATION SEASON.

**** PE01AFFIDAVIT SUBMITTED WITH CLAIM STATES ALL WATER OF SOURCE FOR 48 HOURS OF EVERY 144 HOURS.

Departments Examination Report Remarks.

For identifying unresolved issues.

P130 PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 19.

PERIOD OF USE (PE) (cont.)

<u>Reference Number</u>	<u>Description</u>
P135	PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL PERIOD OF USE FOR THE CLAIMED PURPOSE WHICH IS MARCH 15 TO NOVEMBER 19.
P140	PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. USE OF THIS WATER MAY NOT BE FEASIBLE DURING WINTER MONTHS.
P150	PE51THE CLAIMED PERIOD OF USE APPEARS INADEQUATE FOR THE USUAL GROWING SEASON IN THIS AREA WHICH IS APRIL 1 TO OCTOBER 31.
P151	PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. THE CLAIMED PERIOD OF USE APPEARS TO BE INADEQUATE.
P155	PE51NO PERIOD OF USE HAS BEEN CLAIMED. THE USUAL AND REASONABLE PERIOD OF USE IN THIS AREA IS APRIL 20 TO OCTOBER 10.
****	PE51THE CLAIMED PERIOD OF USE IS INCONSISTENT WITH THE CLAIMED DOCUMENTATION. CASE NO. 0000, SANDERS COUNTY, DECREES THE PERIOD OF USE AS JUNE 15 THROUGH SEPTEMBER 1.

Manual Reference: VI.K.

PLACE OF USE (PL)

Reference
Number

Description

Decree Abstract Remarks.

For retaining claimed data that cannot be stored in the computer POU record.

P165	PL01THE PLACE OF USE INCLUDES/IS LOCATED IN GOVT LOTS 5, 6, AND 7 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY. [Man. Ref. VI.E.]
P170	PL01THE PLACE OF USE INCLUDES/IS LOCATED IN LUCKY STRIKE PLACER, MINERAL SURVEY NO. 9999. [Man. Ref. VI.E.]
P171	PL01THE PLACE OF USE INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY. [Man. Ref. VI.E.]
P175	PL01THE PLACE OF USE INCLUDES LOTS 5, 6, AND 7 OF GRUBER ESTATES, FIRST ADDITION. [Man. Ref. VI.E.]
	PL01THE PLACE OF USE INCLUDES MINERAL SURVEY NO. 2076. [Man. Ref. VI.E.]
P180	PL01THE PLACE OF USE IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8765. [Man. Ref. VI.E.]
	PL01THE PLACE OF USE IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076. [Man. Ref. VI.E.]
****	PL01THE PLACE OF USE IS IN SW SEC 2 TWP 20N RGE 21E LEMHI COUNTY, IDAHO. [Man. Ref. VII.D., X.C.]
P190	PL01THE PLACE OF USE IS GENERALLY FROM TWP 20N TO TWP 23N AND FROM RGE 07W TO RGE 02E, CASCADE, LEWIS AND CLARK, AND TETON COUNTIES. FOR THE COMPLETE DETAILED PLACE OF USE DESCRIPTION, SEE FILE NO. W000000-00. [Man. Ref. VII.F.]
	(Note: One or more county can be coded.)
****	PL01THE PLACE OF USE IS IN TWP 10N RGE 20E AND TWP 10N RGE 21E, CASCADE COUNTY. [Man. Ref. X.C.]
****	PL01THE PLACE OF USE IS FROM TWP 10N TO TWP 15N AND RGE 12E TO RGE 15E, CASCADE COUNTY. [Man. Ref. X.C.]
P205	PL01THE PLACE OF USE IS THE GENERAL AREA WITHIN A FIVE MILE RADIUS OF THE POINT OF DIVERSION. [Man. Ref. X.C.]

PLACE OF USE (PL) (cont.)

<u>Reference Number</u>	<u>Description</u>
P210	PL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE PLACE OF USE HAS BEEN ESTIMATED. [Man. Ref. VI.E.]
P215	PL01THE PLACE OF USE IS THE TOWN OF BAKER. PL01THE PLACE OF USE IS EAST OF RIMINI ROAD. PL01THE PLACE OF USE IS THE SURFACE AREA OF BAIR RESERVOIR AT THE TOP OF THE FLOOD POOL. [Man. Ref. X.C.]
****	PL01THE PLACE OF USE TOTALING 21 ACRES INCLUDES THREE SEPARATE FIELDS IRRIGATED UNDER A ROTATION SYSTEM. THE MAXIMUM NUMBER OF ACRES IRRIGATED IN ANY YEAR IS 7 ACRES. [Man. Ref. VII.D.]
Department's Examination Report Remarks. For identifying unresolved issues.	
P225	PL51A FIELD INVESTIGATION CONDUCTED ON 03/12/86 FOUND 1600.00 ACRES PRESENTLY BEING IRRIGATED. SEE CLAIM FILE FOR ADDITIONAL INFORMATION. [Man. Ref. IV.F., VII.D.]
P230	PL51A FIELD INVESTIGATION CONDUCTED ON 07/01/86 FOUND REMNANTS OF A DITCH SERVING THE CLAIMED PLACE OF USE. TOTAL HISTORICALLY IRRIGATED ACRES AND LAST YEAR OF OPERATION WERE NOT DETERMINABLE. SEE CLAIM FILE FOR ADDITIONAL INFORMATION. [Man. Ref. IV.F., VII.D.]
P235	PL51THE MINERAL COUNTY WATER RESOURCES SURVEY (1969) APPEARS TO INDICATE 86.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. [Man. Ref. VII.D.]
P240	PL51THE MINERAL COUNTY WATER RESOURCES SURVEY (1969) APPEARS TO INDICATE 0.00 ACRES IRRIGATED. [Man. Ref. VII.D.]
P245	PL51THE MADISON COUNTY WATER RESOURCES SURVEY (1965) APPEARS TO INDICATE ONLY 198.00 ACRES IRRIGATED OUT OF THE LONG DITCH. [Man. Ref. VII.D.]
P250	PL51THE POWELL COUNTY WATER RESOURCES SURVEY (1959) APPEARS TO INDICATE 26.50 ACRES IRRIGATED BY WATER DIVERTED FROM SHORT CREEK. [Man. Ref. VII.D.]

PLACE OF USE (PL) (cont.)

<u>Reference Number</u>	<u>Description</u>
P255	PL51THE GRANITE COUNTY WATER RESOURCES SURVEY (1959) INDICATES AN ADDITIONAL 150.00 ACRES MAY HAVE BEEN IRRIGATED PRIOR TO THE SURVEY. THE ACREAGE WAS NOT BEING IRRIGATED AT THE TIME OF THE SURVEY. [Man. Ref. VII.D.]
P260	PL51THE GRANITE COUNTY WATER RESOURCES SURVEY (1959) APPEARS TO INDICATE 90.00 ACRES IRRIGATED AT THE TIME OF THE SURVEY, PLUS ANOTHER 40.00 ACRES AS HAVING BEEN IRRIGATED PRIOR TO THE SURVEY. [Man. Ref. VII.D.]
P261	PL51THE GRANITE COUNTY WATER RESOURCES SURVEY FIELD NOTES (1958) APPEAR TO INDICATE 0.00 ACRES IRRIGATED BY WATER DIVERTED FROM BASS CREEK. [Man. Ref. VII.D.]
P262	PL51THE MISSOULA COUNTY WATER RESOURCES SURVEY FIELD NOTES (1959) INDICATE THAT 0.00 ACRES WERE IRRIGATED BY THIS FILED APPROPRIATION RIGHT. [Man. Ref. VII.D.]
P263	PL51THE BLAINE COUNTY WATER RESOURCES SURVEY (1956) INDICATES THE PLACE OF USE WAS LAST IRRIGATED SOMETIME PRIOR TO 1956. [Man. Ref. VII.D]
P265	PL51USDA AERIAL PHOTOGRAPH NO. 179-108, DATED 08/02/79, AND THE RAVALLI COUNTY WATER RESOURCES SURVEY (1958) APPEAR TO INDICATE FEWER ACRES IRRIGATED THAN CLAIMED. [Man. Ref. VII.D.]
P270	PL51USDA AERIAL PHOTOGRAPH NO(S). 378-201, 179-108, DATED 08/29/78, 09/10/79, APPEARS TO INDICATE 84.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. [Man. Ref. VII.D.]
P271	PL51USDA AERIAL PHOTOGRAPH NO. 179-108, DATED 08/02/79, APPEARS TO INDICATE 0.00 ACRES IRRIGATED. [Man. Ref. VII.D.]
P275	PL51USDA AERIAL PHOTOGRAPH NO. 479-3, DATED 09/10/78, INDICATES AN ADDITIONAL 25.00 ACRES MAY HAVE BEEN IRRIGATED PRIOR TO 1978. THE ACREAGE WAS NOT IRRIGATED IN 1978. [Man. Ref. VII.D.]

PLACE OF USE (PL) (cont.)

Reference Number	Description
P280	PL51USDA AERIAL PHOTOGRAPH NO. 178-44, DATED 08/29/78, SHOWS EVIDENCE OF A SPREADER DIKE SYSTEM. THE SOURCE OF WATER IS AN INTERMITTENT STREAM. THE SYSTEM VISIBLE ON THE PHOTOGRAPH APPEARS CAPABLE OF IRRIGATING 90.00 ACRES WHEN WATER IS AVAILABLE. [Man. Ref. VII.D.]
P283	PL51USDI AERIAL PHOTOGRAPH NO. MMA-1-117, DATED 10/09/51, APPEARS TO INDICATE 40.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. [Man. Ref. VII.D.]
P284	PL51USDI AERIAL PHOTOGRAPH NO. MMA-1-117, DATED 10/09/51, APPEARS TO INDICATE 0.00 ACRES IRRIGATED. [Man. Ref. VII.D.]
P286	PL51AERIAL PHOTOGRAPH NO(S). CXM-2FF-90, CXM-3FF-91, DATED 07/31/65, 10/11/88, APPEARS TO INDICATE 70.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. [Man. Ref. VII.D.]
P287	PL51AERIAL PHOTOGRAPH NO. CXM-2FF-90, DATED 07/31/65, APPEARS TO INDICATE 0.00 ACRES IRRIGATED. [Man. Ref. VII.D.]
P290	PL51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE PLACE OF USE WAS FIRST/LAST IRRIGATED IN 1965. [Man. Ref. VII.D.]
P291	PL51ACCORDING TO INFORMATION IN THE CLAIM FILE, AN EXPANSION IN THE NUMBER OF IRRIGATED ACRES HAS TAKEN PLACE. MORE THAN ONE WATER RIGHT MAY BE INVOLVED. [Man. Ref. VII.D.]
P295	PL51THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE IRRIGATED BY WATER FROM THE CLAIMED SOURCE. [Man. Ref. VII.D.]
****	PL51THE CLAIMED PLACE OF USE AND ACRES IRRIGATED MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THIS WELL IRRIGATES 6.3 ACRES. [Man. Ref. VII.D.]
P300	PL51PART OF THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE IRRIGATED BY WATER FROM THE CLAIMED SOURCE. [Man. Ref. VII.D.]

PLACE OF USE (PL) (cont.)

Reference Number	Description
P301	PL51PART OF THE CLAIMED PLACE OF USE MAY BE QUESTIONABLE. IT DOES NOT APPEAR THE PLACE OF USE ALONG GREYSON CREEK AND DEEP CREEK ABOVE THE BROADWATER-MISSOURI EAST SIDE CANAL CAN BE IRRIGATED FROM THE CLAIMED SOURCE. [Man. Ref. VII.D.]
P305	PL51THE CLAIMED PLACE OF USE AND ACRES IRRIGATED COULD NOT BE IDENTIFIED FROM DATA SUBMITTED WITH THE CLAIM. [Man. Ref. VII.D., VIII.D., IX.D., X.C.]
P310	PL51AN INTERSTATE USE OF WATER IS CLAIMED. PLACE OF USE IS IN IDAHO. [Man. Ref. VII.D., X.C.]
****	PL51RAVALLI COUNTY RECORDS INDICATE THE LEGAL LAND DESCRIPTION FOR THE CLAIMED PLACE OF USE IS SWSWSW SEC 03 TWP 01N RGE 20W RAVALLI COUNTY. [Man. Ref. VIII.D.]
P320	PL51THE PLACES OF USE FOR IRRIGATION CLAIM NO. W000000-00 AND DOMESTIC CLAIM NO. W000000-00 OVERLAP. [Man. Ref. VIII.D.]
P325	PL51THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE USED FOR DOMESTIC IRRIGATION PURPOSES. [Man. Ref. VIII.D.]
P330	PL51ONLY 2.00 ACRES OF THE CLAIMED PLACE OF USE APPEAR IRRIGATED FOR DOMESTIC PURPOSES. [Man. Ref. VIII.D.]
P335	PL51USDA AERIAL PHOTOGRAPH NO. 1379-48, DATED 06/18/80, SHOWS NO EVIDENCE OF FISH RACEWAYS AT THE CLAIMED PLACE OF USE. [Man. Ref. X.C.]
P340	PL51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 PLACE OF USE WAS IN SEC 06 TWP 01N RGE 17E SWEET GRASS COUNTY. [Man. Ref. XI.F.]
P345	PL51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES A POST-JUNE 30, 1973 CHANGE IN PLACE OF USE. [Man. Ref. XI.F.]

PRIORITY DATE (PR)

Reference
Number

Description

Decree Abstract Remark.

Use to identify the ranking of a decreed right.

- P350 PR01CASE NO. 0000, LAKE COUNTY, DECREES A RIGHT OF
38TH USE.
- P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY
DATE IS DECREED PURSUANT TO SECTION 85-2-306(2)
MCA.

Department's Examination Report Remarks.

For identifying unresolved issues.

- P355 PR51THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY
BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE
TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WERE
NOT SUBMITTED WITH THIS CLAIM.
[Man. Ref. VI.I., VI.J.]
- P360 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE.
DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A
USE RIGHT. [Man. Ref. VI.I.]
- P365 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE.
THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960)
IDENTIFIES THIS RIGHT AS A FILED APPROPRIATION.
[Man. Ref. VI.I.]
- P370 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM
IS FOR A FILED APPROPRIATION/USE RIGHT ON
RACETRACK CREEK WITH A PRIORITY DATE
PREDATING/POSTDATING CASE NO. 0000, POWELL COUNTY.
[Man. Ref. VI.I.]
- **** PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM
IS FOR A FILED APPROPRIATION/USE RIGHT ON RED
LODGE CREEK ACQUIRED BY THE STATE WITH A PRIORITY
DATE PREDATING/POSTDATING CASE NO. 247, CARBON
COUNTY. [Man. Ref. VI.I.]
- P372 PR51NO TYPE OF HISTORICAL RIGHT WAS CLAIMED.
DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL
RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.
[Man. Ref. VI.I.]

PRIORITY DATE (PR) (cont.)

Reference Number	Description
****	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RED LODGE CREEK ACQUIRED BY THE STATE WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 247, CARBON COUNTY. [Man. Ref. VI.I.]
****	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE POSTDATING/PREDATING CASE NOS. 1111, 2222 AND 3333, POWELL COUNTY. [Man. Ref. VI.I.]
****	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WHICH HAS BEEN DECREED IN CASE NOS. 1111, 2222, AND 3333 POWELL COUNTY. [Man. Ref. VI.I.]
****	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE POSTDATING CASE NOS. 1111, 2222, AND 3333, AND PREDATING CASE NOS 4444, 5555, 6666, POWELL COUNTY. [Man. Ref. VI.I.]
P380	PR51NO PRIORITY DATE WAS CLAIMED.
P385	PR51A SPECIFIC PRIORITY DATE HAS NOT BEEN IDENTIFIED. PRIORITY DATE WAS CLAIMED AS PRIOR TO 1950.
P386	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 1882 OR 1982.
P390	PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED NOTICE OF APPROPRIATION IS JUNE 10, 1921.
P395	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960) IDENTIFIES THE PRIORITY DATE AS MAY 13, 1913.
P400	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE AFFIDAVIT STATES THE WELL WAS COMPLETED IN THE EARLY 1930'S.
P405	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, IT APPEARS WATER FROM THE SOURCE WAS FIRST USED IN 1980.

PRIORITY DATE (PR) (cont.)

Reference Number	Description
****	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DOMESTIC USE QUESTIONNAIRE, DATED 04/06/90, STATES THAT WATER FROM CHRISTISEN CREEK WAS FIRST USED ON THE CLAIMED PLACE OF USE IN 1972.
P415	PR51THE BASIS OF THIS CLAIMED WATER RIGHT WAS NOT FOUND IN THE DECREE FROM CASE NO. 0000, SANDERS COUNTY. THE CLAIMED PRIORITY DATE CANNOT BE CONFIRMED.
****	PR51THE DATE OF ISSUANCE OF THE DECREE, CASE NO. 0000, LAKE COUNTY, WAS CLAIMED. THE INDIVIDUAL RIGHT BEING CLAIMED CANNOT BE IDENTIFIED.
P430	PR51CASE NO. 0000, LAKE COUNTY, DOES NOT SPECIFY PRIORITY DATES. A PRIORITY DATE HAS/HAS NOT BEEN CLAIMED.
P435	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, RAVALLI COUNTY, DOES NOT SPECIFY A DAY/MONTH/DAY AND MONTH. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED VARYING PRIORITY DATES. W000000-00, W000000-00, W000000-00.
P436	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, LEWIS AND CLARK COUNTY, DOES NOT SPECIFY A MONTH AND DAY. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED THE SAME PRIORITY DATE. W000000-00, W111111-00.
P440	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, LEWIS & CLARK COUNTY, DOES NOT SPECIFY A DAY/MONTH/DAY AND MONTH. A DAY/MONTH/DAY AND MONTH HAS/HAS NOT BEEN CLAIMED.
P445	PR51THE CLAIMED PRIORITY DATE PREDATES/POSTDATES THE FILED NOTICE OF APPROPRIATION. THE CLAIMED PRIORITY DATE AND TYPE OF HISTORICAL RIGHT CANNOT BE SUBSTANTIATED.
P450	PR51THE CLAIMED PRIORITY DATE DIFFERS FROM THE EARLIEST DATE ON THE FILED NOTICE. THE CLAIMED PRIORITY DATE CANNOT BE SUBSTANTIATED.
P455	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SOURCE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED SOURCE.

PRIORITY DATE (PR) (cont.)

Reference Number	Description
P460	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN CASE NO. 0000, LINCOLN COUNTY, IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.
P461	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE FOR THE STEVENSON DECREED RIGHT, DESCRIBED AS NENE SEC 27 TWP 11N RGE 20W IN CASE NO. 402, RAVALLI COUNTY, IS INCONSISTENT WITH THE CLAIMED PLACE OF USE. (Note: Can be coded without ¼ section description.)
P462	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED FOR THIS RIGHT IN THE MISSOULA COUNTY WATER RESOURCES SURVEY FIELD NOTES (1959) IS THE NENE SEC 27 TWP 14N RGE 15E. THIS IS INCONSISTENT WITH THE CLAIMED PLACE OF USE. (Note: Can be coded without ¼ section description.)
P465	PR51THIS CLAIM TO A FILED APPROPRIATION/DECREED RIGHT MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN THE MISSOULA COUNTY WATER RESOURCES SURVEY (1960) IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.
P470	PR51THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973.
P475	PR51CASE NO. 0000, PARK COUNTY, NULLIFIED THE FILED APPROPRIATION RIGHT SUBMITTED WITH THIS CLAIM.
****	PR51THE CLAIMED PRIORITY DATE PRECEDES 1864, THE EARLIEST GENERAL DATE OF SETTLEMENT WITHIN THE YAAK RIVER DRAINAGE.
P490	PR51AT THE TIME OF THE CLAIMED PRIORITY DATE, IT APPEARS THAT THE PLACE OF USE WAS PART OF AN INDIAN RESERVATION.
P500	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO NOTICE OF COMPLETION WAS FILED. THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED ON JUNE 10, 1965.
P505	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) IS DECEMBER 6, 1963.

PRIORITY DATE (PR) (cont.)

<u>Reference Number</u>	<u>Description</u>
P510	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, IS JANUARY 3, 1964.
P515	PR51A FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, WAS FILED AND SUBMITTED WITH THIS CLAIM AS A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.
P516	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT APPEARS THE FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, FILED JUNE 5, 1966, WAS USED IN LIEU OF A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.
P520	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM.
P525	PR51A SURFACE WATER NOTICE OF APPROPRIATION WAS SUBMITTED TO SUPPORT THIS CLAIM TO GROUNDWATER APPROPRIATED BETWEEN JANUARY 1, 1962 AND JULY 1, 1973.
P530	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER APRIL 13, 1981. SEE SECTION 85-2-306(2), MCA.
P535	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER 6/30/1973. NO NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED AS REQUIRED BY THE 1961 GROUNDWATER CODE.
P540	PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS NOT FILED AT THE COURTHOUSE AS REQUIRED BY THE 1961 GROUNDWATER CODE.
P545	PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM. THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH WATER RIGHT NO. C000000-00.

PRIORITY DATE (PR) (cont.)

Reference
Number

Description

P546 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE
BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961
GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS
CLAIM. THIS CLAIM IS SUPPORTED BY ACKNOWLEDGEMENT
NO. K043022-00.

**** PR51THE CLAIMED PRIORITY DATE INDICATES AN
APPROPRIATION OF WATER AFTER JUNE 30, 1973. THIS
CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH
WATER RIGHT NO. P000000-00.

P550 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. IT
APPEARS THE PRIORITY DATE SHOULD BE THE DATE THE
SPRINKLER SYSTEM WAS FIRST PUT TO USE.
[Man. Ref. VI.J., VII.A.]

Manual Reference: VI.J. (For PR Remarks With No Manual Reference)
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PURPOSE (PU)

Reference
Number

Description

Decree Abstract Remarks.

Court statement added to clarify and describe the purpose.

P555	PU01THIS WATER RIGHT IS INCIDENTALLY USED FOR FIRE PROTECTION. [Man. Ref. VI.C., X.B.]
P556	PU01THIS WATER RIGHT ALSO INCLUDES NATURAL SUBIRRIGATION AS AN INCIDENTAL TYPE OF IRRIGATION. [Man. Ref. VII.A.]
P560	PU01SUBIRRIGATION CONTROLLED BY CHECK DAM LOCATED ON DRAIN DITCH. [Man. Ref. VI.C., VII.A.]
P565	PU01PLACER MINING
	PU01DAIRY
	PU01RESTAURANT
	PU01CONVENIENCE STORE AND SERVICE STATION
	PU01COAL FIRED ELECTRIC POWER PLANT
	PU01SMELTER
	PU01SAWMILL WITH LOG POND
	PU01CHURCH
	PU01CAR WASH
	PU01FISHING ACCESS SITE
	PU01MARINA
	PU01ATHLETIC CLUB
	PU01HIGHWAY REST AREA
	Note: See Figure VI-1 (Claim Examination: Purpose) for a more comprehensive list of purpose descriptions.
****	PU01THIS RIGHT IS FOR DIRECT DIVERSION THROUGH THE POWER PLANT (NO STORAGE).
****	PU01THIS IS [CLAIMED AS] A STORAGE RIGHT USED FOR POWER GENERATION.

PURPOSE (PU) (cont.)

Reference
Number

Description

P600 PU01THIS RIGHT IS SUBJECT TO ALL PRIOR RIGHTS. THE FLOW RATE AND VOLUME REPRESENT THE CLAIMED NEEDS OF THE STATE DEPARTMENT OF FISH WILDLIFE AND PARKS TO MAINTAIN STREAM FLOWS FOR THE PRESERVATION OF FISH AND WILDLIFE HABITAT. THE CLAIMED AMOUNTS ARE MADE A MATTER OF RECORD BUT ARE SUBJECT TO CHANGE SHOULD THE COURT DETERMINE THAT THOSE WATERS ARE NEEDED FOR USES DETERMINED TO BE MORE BENEFICIAL TO THE PUBLIC. SEE R.C.M. §89-801 (1947), NOW REPEALED BY SEC. 46, CH. 452, LAWS 1973. [Man. Ref. X.B.]

Department's Examination Report Remarks.

For identifying unresolved issues.

P620 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. A FIELD INVESTIGATION CONDUCTED 03/15/84 FOUND NO EVIDENCE OF RECENT MINING ACTIVITY. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.
[Man. Ref. IV.F., VI.C.]

P625 PU51THE CLAIMED PURPOSE (USE) COULD NOT BE IDENTIFIED DUE TO LACK OF DATA.

P628 PU51THE CLAIMED PURPOSE (USE) CANNOT BE CONFIRMED DUE TO LACK OF DATA.

P630 PU51THIS CLAIMED PURPOSE IS QUESTIONED AS A BENEFICIAL USE OF WATER EXISTING PRIOR TO JULY 1, 1973.

P631 PU51THIS CLAIMED PURPOSE (USE) CANNOT BE CONFIRMED. THERE APPEARS TO BE NO APPROPRIATION OF WATER AS THE METHOD OF DIVERSION IS INSTREAM USE.

P637 PU51THE PURPOSE OF THIS CLAIM IS UNCLEAR AS MULTIPLE PURPOSES HAVE BEEN CLAIMED. THE CLAIMED PURPOSES INCLUDE RECREATION AND COMMERCIAL. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

P639 PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT. IT APPEARS THIS WATER RIGHT MAY HAVE NOT BEEN PERFECTED.

**** PU51THE RIDDLE COUNTY WATER RESOURCES SURVEY (1959) INDICATES THIS MUNICIPAL CLAIM WAS NOT PERFECTED.

PURPOSE (PU) (cont.)

Reference Number	Description
P644	PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THERE APPEARS TO BE NO APPROPRIATION OF WATER. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.
P650	PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, NO WELL EXISTS FOR THIS CLAIM. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE. THE HEADGATE AND DITCH ARE AT A LOWER ELEVATION THAN THE CLAIMED PLACE OF USE. WATER FROM THE MAIN DITCH HAS NEVER BEEN USED FOR HOUSEHOLD PURPOSES.
****	PU51THE MISSOULA COUNTY WATER RESOURCES SURVEY FIELD NOTES (1959) INDICATES THIS FILED APPROPRIATION RIGHT MAY NOT HAVE BEEN PERFECTED. THE FIELD NOTES DO NOT LIST THIS WATER RIGHT AMONG THOSE RIGHTS BEING USED ON THE CLAIMED PLACE OF USE.
P655	PU51ACCORDING TO INFORMATION IN THE CLAIM FILE, THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED FOR IRRIGATION USE. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.
P665	PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. NO PURPOSE, SOURCE, POINT OF DIVERSION, MEANS OF DIVERSION, PRIORITY DATE, TYPE OF HISTORICAL RIGHT, FLOW RATE, VOLUME, PERIOD OF USE, OR PLACE OF USE HAVE BEEN CLAIMED. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE. (Note: Two or more elements can be coded.)
P675	PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. THE RIGHT APPEARS TO HAVE LAST BEEN USED IN 1956.
P676	PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT WAS LAST USED IN 1950.
P680	PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT MAY NOT HAVE BEEN USED FOR THE PAST 40 YEARS.

PURPOSE (PU) (cont.)

Reference Number	Description
P685	PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT FOR THE TEN CONSECUTIVE YEARS PRIOR TO JULY 1, 1973.
P690	PU51THE CLAIMED PURPOSE DOES NOT MATCH THE FORMERLY DECREED PURPOSE. CASE NO. 0000, WHEATLAND COUNTY DECREED THE USE AS MINING.
P695	PU51NO TYPE OF IRRIGATION SYSTEM HAS BEEN CLAIMED. THE TYPE OF HISTORICAL IRRIGATION APPEARS TO HAVE BEEN A FLOOD SYSTEM. [Man. Ref. VII.A.]
P697	PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. IT IS UNCLEAR IF THIS RIGHT SHOULD BE DEFINED BY FLOW RATE OR VOLUME. [Man. Ref. VII.A.]
P700	PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. USDA AERIAL PHOTOGRAPH NO. 999-111, DATED 08/31/78, SHOWS FLOOD IRRIGATION. [Man. Ref. VII.A.]
****	PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. THE 1976 USGS TOPOGRAPHIC MAP "VANDALIA" INDICATES THE EXISTENCE OF A WATER SPREADING SYSTEM. [Man. Ref. VII.A.]
****	PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. THE GARFIELD COUNTY WATER RESOURCES SURVEY (1959) INDICATES A FLOOD SYSTEM. [Man. Ref. VII.A.]
****	PU51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS PRIOR TO JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 PURPOSE WAS MINING. [Man. Ref. XI.F.]
P721	PU51THERE IS A QUESTION AS TO THE VALIDITY OF THIS CLAIMED RIGHT. IN THE MATTER OF THE DEARBORN DRAINAGE AREA, 234 MONT. 343 (1988) (THE BEAN LAKE CASE) THE MONTANA SUPREME COURT STATED: "IT IS CLEAR THEREFORE THAT UNDER MONTANA LAW BEFORE 1973, NO APPROPRIATION RIGHT WAS RECOGNIZED FOR RECREATION, FISH AND WILDLIFE, EXCEPT THROUGH A MURPHY RIGHT STATUTE."

Manual Reference: VI.C.
(For PU Remarks With No Manual Reference)

GENERAL REMARK (RM)

Reference
Number

Description

Unpublished Remarks.

For inputting information into the computer claim file for internal use within the department, but will be suppressed from printing on the decree abstract or department's examination report.

R5	RM01PARENT FILE FOR THIS RIGHT IS Z000000-00. [Man. Ref. VII.F.]
R15	RM01IMPLIED CLAIM NO. W000000-00 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. [Man. Ref. XI.B.]
R16	RM01THE IMPLIED CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. W000000-00, W111111-00, W222222- 00. [Man. Ref. XI.B.]

RESERVOIR (RN)

Reference
Number

Description

Decree Abstract Remarks.

To retain claimed information that cannot be retained in the reservoir record.

- R25 RN01RESERVOIR NAME: OLD MILLER POND
RN01RESERVOIR NAME: UPPER RANCH RSVR. NO. 2
[Man. Ref. VI.D., VI.H.]
- R35 RN01THE DAM/PIT EXTENDS INTO THE NESW SEC 03 TWP 05N
RGE 15E SWEET GRASS COUNTY.
- R40 RN01THE DAM/PIT EXTENDS INTO THE NWNWNE, NENENW SEC 03
TWP 05N RGE 15E SWEET GRASS COUNTY.
- R50 RN01THE DAM/PIT IS LOCATED IN GOVT LOT 1 SEC 3 TWP 27N
RGE 38E VALLEY COUNTY.
- R55 RN01THE CAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE
BEEN ESTIMATED BY DNRC.
- R56 RN01THE CAPACITY, DAM HEIGHT, AND SURFACE AREA
HAVE/HAS BEEN ESTIMATED BY DNRC.
- R65 RN01THE RESERVOIR IS A DAMMED OXBOW OF THE OLD MILK
RIVER CHANNEL.
- R70 RN01MANMADE PIT IN BOTTOM OF NATURAL LAKE.
- R75 RN01SEE THE RESERVOIR WORKSHEET IN THE CLAIM FILE FOR
ADDITIONAL RESERVOIR DATA.
- R76 RN01SEE THE MONTANA RESOURCES BOARD DAM INVENTORY
WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL
RESERVOIR DATA.

Departments Examination Report Remarks.

For identifying unresolved issues.

- R77 RN51THE MAXIMUM STORAGE CAPACITY OF THIS RESERVOIR MAY
BE QUESTIONABLE. ACCORDING TO DNRC ESTIMATES, THE
MAXIMUM STORAGE CAPACITY IS 40.00 ACRE-FEET.
- R80 RN51RESERVOIR APPEARS WASHED OUT ON USDA AERIAL
PHOTOGRAPH NO. 179-152, DATED 08/05/79.
- R81 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE
DAM/PIT WASHED OUT IN 1951.

RESERVOIR (RN) (cont.)

<u>Reference Number</u>	<u>Description</u>
R85	RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS CONSTRUCTED IN 1951 WHICH DOES NOT CORRESPOND TO THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
R90	RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS ENLARGED IN 1940. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
R91	RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, A PIT WAS CONSTRUCTED WITHIN THE RESERVOIR IN 1962 WHICH DOES NOT CORRESPOND WITH THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
R95	RN51THE RESERVOIR IS NOT SHOWN IN THE STILLWATER COUNTY WATER RESOURCES SURVEY (1946). IT APPEARS TO HAVE BEEN BUILT AFTER THE ORIGINAL APPROPRIATION AND MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
R100	RN51EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.
R105	RN51A RESERVOIR STORAGE RIGHT ON THIS CLAIM MAY BE QUESTIONABLE. THE DAM IS LOCATED ON ANOTHER INDIVIDUAL'S PROPERTY WHICH IS COVERED BY CLAIM NO. W000000-00.

Manual Reference: VI.H. (For RN Remarks With No Manual Reference)
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SUBDIVISION (SB)

Reference
Number

Description

Decree Abstract Remarks.

Use to retain or add a subdivision name to the decree abstract. The two letter abbreviation after the remark code is the county code.

S5

SB01JE-GRUBER ESTATES, FIRST ADDITION

SB01JB-SAPPHIRE MTN. ESTATES

Printed format in the general remarks area of the decree abstract. The printed format is:

"SUBD NAME: GRUBER ESTATES, FIRST ADDITION"

"SUBD NAME: SAPPHIRE MTN. ESTATES"

Manual Reference: VI.E.

SOURCE NAME (SN)

Reference
Number

Description

Decree Abstract Remarks.

Court statement added to clarify and describe the source.

S10	SN01POINT OF DIVERSION NO. 4 IS ON AN UNNAMED TRIBUTARY OF STONEY CREEK.
S15	SN01THE SOURCE INCLUDES UNNAMED TRIBUTARIES OF TWO DOG CREEK.
S16	SN01SOURCE IS COMPOSED OF SEVERAL/THREE UNNAMED TRIBUTARIES WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.
S20	SN01SOURCE IS COMPOSED OF SEVERAL/FOUR DEVELOPED/UNDEVELOPED SPRINGS WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.
S25	SN01POINT OF DIVERSION NO. 3 IS ON STONEY CREEK.
S30	SN01ALSO KNOWN AS DOG TAIL SLOUGH SN01ALSO KNOWN AS JOHNSON LAKE SN01ALSO KNOWN AS KELLEY PLACE SPRING
S35	SN01UNNAMED NATURAL LAKE
S41	SN01POTHOLE LAKE
S42	SN01SOURCE FEEDS A NATURAL LAKE/POND
S43	SN01SOURCE ORIGINATES FROM A NATURAL LAKE KNOWN AS PAPEZ LAKE.
S45	SN01THE SOURCE IS WATER FLOWING FROM THE IRON MASK MINE TUNNEL.
S50	SN01FLOWING ARTISAN WELL
S55	SN01WATER FROM NO MAN LAKE IS EXCHANGED FOR WATER DIVERTED FROM THE SOUTH FORK OF INDIAN CREEK.
S60	SN01WATER DECREED FROM DOG CREEK, CASE NO. 0000, PONDERA COUNTY, IS EXCHANGED FOR WATER DIVERTED FROM MUDDY CREEK.
S65	SN01CLARK FORK RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM ALBERT CREEK TO POINT OF DIVERSION NO. 2.

SOURCE NAME (SN) (cont.)

<u>Reference Number</u>	<u>Description</u>
S70	SN01SOUTH BOULDER RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM DICKSON CREEK TO THE POINT OF DIVERSION.
S75	SN01THE SOURCE IS A TRIBUTARY OF PRICKLEY PEAR CREEK.
S80	SN01THIS WATER RIGHT ALSO INCLUDES SURFACE WATER FROM AN UNNAMED TRIBUTARY OF MAD DOG CREEK.
S85	SN01THIS WATER RIGHT ALSO INCLUDES GROUNDWATER FROM A DEVELOPED SPRING IN THE NWNWNW SEC 18 TWP 10N RGE 13W POWELL COUNTY.
S90	SN01THE SOURCE IS WATER COLLECTED IN A DRAIN DITCH.
S95	SN01THE SOURCE IS WATER COLLECTED IN THE MONFORTON DRAIN DITCHES.
S97	SN01THE SOURCE IS WATER COLLECTED ALONG THE ENTIRE LENGTH OF THE BAILEY DITCH WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.
S98	SN01THE SOURCE IS WATER COLLECTED ALONG THE LENGTH OF DITCH WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.
S100	SN01SOURCE LOCATED WITHIN AN INTERIOR DRAINAGE.
Department's Examination Report Remarks. For identifying unresolved issues.	
S105	SN51THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.
S110	SN51THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.
S115	SN51WATER IS NOT DIVERTED FROM THE CLAIMED SOURCE. WATER FROM THE CLAIMED SOURCE IS EXCHANGED FOR WATER DIVERTED FROM A DIFFERENT SOURCE. DUE TO THE EXCHANGE OF WATER, THE SOURCE AND PRIORITY DATE CANNOT BE CONFIRMED.
S120	SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED. A HISTORICAL APPROPRIATION FROM THE CLAIMED SOURCE CANNOT BE CONFIRMED.

SOURCE NAME (SN) (cont.)

<u>Reference Number</u>	<u>Description</u>
S125	SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED. IT APPEARS THAT NO HISTORICAL APPROPRIATION HAS OCCURRED FROM THE CLAIMED SOURCE.
S126	SN51THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM DOG CREEK.
S127	SN51THE CLAIMED SOURCE MAY BE QUESTIONABLE. THE SOURCE DESCRIBED IN CASE NO. 3463, LEWIS AND CLARK COUNTY, IS INCONSISTENT WITH THE SOURCE AT THE CLAIMED POINT OF DIVERSION.

Manual Reference: VI.D.

SUPPLEMENTAL RIGHTS (SR)

Reference
Number

Description

Decree Abstract Remarks.

Added to every claims in a supplemental relationship.

Irrigation: added by computer based on the information in the examination worksheet supplemental rights statement. Remark not stored in computer claim file.

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS OF THE CLAIMANT'S TOTAL _____ ACRES. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. W000000-00, W000000-00 [Man. Ref. VII.E.]

Irrigation Districts: added manually. Remark stored in computer claim file.

S130 SR01THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. W000000-00, W000000-00. [Man. Ref. VII.F.]

Other Uses: added manually. Remark stored in computer claim file.

S135 SR01WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. W000000-00, W000000-00, W000000-00. [Man. Ref. X.C.]

Department's Examination Report Remarks.

For identifying unresolved issues.

S140 SR51THE COMBINED CLAIMED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 69.50 GPM PER ACRE. THE FLOW RATE GUIDELINE FOR INDIVIDUAL CLAIMS IS 17 GPM PER ACRE. [Man. Ref. VII.E.]

SUPPLEMENTAL RIGHTS (SR) (cont.)

<u>Reference Number</u>	<u>Description</u>
S141	SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 17.90 ACRE-FEET PER ACRE. THE VOLUME GUIDELINE FOR INDIVIDUAL CLAIMS IS 1.90 ACRE-FEET PER ACRE. [Man. Ref. VII.E.]
****	SR51THE COMBINED CLAIMED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 50 CFS WHICH APPEARS TO EXCEED THE CAPACITY OF THE MACMILLAN DITCH. THE CARBON COUNTY WATER RESOURCES SURVEY (1943) INDICATE THE DITCH CAPACITY TO BE 35 CFS. [Man. Ref. VII.E.]
S146	SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 200 ACRE-FEET WHICH APPEARS TO EXCEED THE CAPACITY OF MACMILLAN RESERVOIR. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE MAXIMUM STORAGE CAPACITY IS 35 ACRE-FEET. [Man. Ref. VII.E.]
S150	SR51THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE. [Man. Ref. VII.E.]
S155	SR51THE COMBINED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS EXCEEDS THE FLOW RATE GUIDELINE FOR MINING PURPOSES BY A FACTOR OF TWO. [Man. Ref. X.C.]
S160	SR51THE COMBINED CLAIMED VOLUME FOR THE FOLLOWING CLAIMS IS 1720 GALLONS PER CAPITA PER DAY (GCPD) BASED ON THE 1980 CENSUS POPULATION OF 1896 PEOPLE AND A TOTAL CLAIMED VOLUME OF 3657 ACRE-FEET. THIS APPEARS EXCESSIVE FOR THE CLAIMED PURPOSE. W043377-00, W043378-00, W045736-00, W045737-00. [Man. Ref. X.C.]
S165	SR51THE COMBINED CLAIMED VOLUME/FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 480.00 ACRE-FEET/300 GPM WHICH CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. X.C.]
S170	SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 1,480.00 ACRE-FEET DATA IN THE CLAIM FILE INDICATES A MAXIMUM USE OF 810.00 ACRE-FEET PER YEAR. [Man. Ref. X.C.]

SOURCE TYPE (ST)

Reference
Number

Description

Unpublished Remarks.

This remark code is used to store spring, waste and seepage, subirrigation, manmade pit, or natural pit in the remark record of the computer claim file. The associated tributary name, if any, is stored in the diversion record. The computer is programmed to print both items combined as the complete source name.

ST01MP	(Manmade Pit)
ST01NP	(Natural Pit)
ST01SI	(Subirrigation)
ST01SP	(Spring)
ST01WS	(Waste and Seepage)

Manual Reference: VI.D.

TERMINATED CLAIM (TC)

Reference
Number

Description

Decree Abstract Remark.

Add to any claim withdrawn from the adjudication process by the claimant.

T5	TC01THIS CLAIM WAS WITHDRAWN FROM THE ADJUDICATION PROCESS AT THE REQUEST OF THE CLAIMANT ON MM/DD/YY.
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Manual Reference: XI.E.

INTERBASIN TRANSFER (TI)

Reference
Number

Description

Decree Abstract Remarks.

Add to claims to be decreed as interbasin transfers.

Surface Water:

- T10 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.
- T15 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE JUDITH RIVER DRAINAGE (BASIN 41S) AND THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

Groundwater:

- T20 TI01THIS APPROPRIATION OF WATER TAKES GROUNDWATER FROM THE WILLOW CREEK DRAINAGE (BASIN 41N). THIS USE MAY POTENTIALLY AFFECT WATER RIGHTS IN THE MARIAS RIVER DRAINAGE (BASIN 41P). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER BASIN.

Interbasin Transfer Notice Remark- printed by the computer on the POU basin notice abstract of an interbasin transfer.

NOTICE: THE POINT OF DIVERSION FOR THIS WATER RIGHT IS LOCATED IN ANOTHER BASIN. THE ABBREVIATED INFORMATION PROVIDED HERE IS TO DESCRIBE THE PLACE OF USE IN THIS BASIN. COMPLETE INFORMATION DESCRIBING THE ENTIRE RIGHT CAN BE FOUND IN THE POINT OF DIVERSION DECREE.

(added by computer- not stored in computer record)

Manual Reference: VI.F.

TRANSFER (TR)

Reference
Number

Description

Decree Abstract Remark.

Added, usually by records, to every claim where a transfer of ownership has been recorded.

T25

TR01NOTICE OF WATER RIGHT TRANSFER RECEIVED MM/DD/YY.

Manual Reference: XI.D.

VOLUME (VM)

Reference
Number

Description

Decree Abstract Remarks.

The following remarks are added by the computer, but not stored in the computer record.

THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. [Man. Ref. VII.C.]

THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE. [Man. Ref. IX.B.]

THE FLOW RATE AND VOLUME ARE LIMITED TO THE MINIMUM AMOUNTS NECESSARY TO SUSTAIN THIS PURPOSE. THIS RIGHT SHALL CONTINUE TO BE UTILIZED IN ACCORDANCE WITH HISTORICAL PRACTICES. [Man. Ref. X.B.]

THIS WATER RIGHT IS LIMITED TO THE VOLUME OF WATER HISTORICALLY USED FOR MINING PURPOSES. [Man. Ref. X.B.]

THE FLOW RATE AND VOLUME OF THIS WATER RIGHT ARE LIMITED TO THE MINIMUM AMOUNTS NECESSARY FOR FIRE PROTECTION PURPOSES. [Man. Ref. X.B.]

Court statement added by the computer.

VM01THE VOLUME OF THIS WATER RIGHT HAS BEEN REDUCED TO THE 1.9 ACRE-FEET PER ACRE GUIDELINE FOR WATER SPREADING. THE VOLUME MAY BE CONTESTED BY PROPER OBJECTION. [Man. Ref. VII.C.]

For retaining claimed data which cannot be stored in the volume record.

**** VM01COMPUTER RECORD CAPACITY FOR VOLUME FILLED. CLAIMED VOLUME IS 1,600,000.00 ACRE-FEET. [Man. Ref. VII.C., X.B.]

V9 VM01PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED. [Man. Ref. VII.C.]

V10 VM01THIS VOLUME WAS PREVIOUSLY DECREED IN CASE NO. 0000, MEAGHER COUNTY.

VOLUME (VM) (cont.)

<u>Reference Number</u>	<u>Description</u>
V11	VM01ENTIRE VOLUME OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.
V12	VM01THIS RIGHT IS FOR ONE FOURTH THE VOLUME OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.
V13	VM01ENTIRE/ONE FOURTH THE VOLUME OF CLEAR CREEK.
****	VM01CASE NO. 0000, TETON COUNTY, DECREES ONE-THIRD INTEREST OF THE CEDAR LAKE STORAGE RIGHT.
Department's Examination Report Remarks. For identifying unresolved issues. Applied by computer standards program. VM51THE CLAIMED VOLUME EXCEEDS MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR. Applied manually.	
V20	VM51THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE. [Man. Ref. X.B.]
V25	VM51THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES. [Man. Ref. VI.C., X.B.]
V30	VM51THE CLAIMED VOLUME EXCEEDS THE 1,750 ACRE-FEET DECREED IN CASE NO. 9999, PONDERA COUNTY.
V35	VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 17.80 ACRE-FEET PER ACRE. [Man. Ref. VII.C., VII.F.]
V37	VM51THE CLAIMED FLOW RATE IS 134.00 GPM/AC. IT APPEARS A VOLUME QUANTIFICATION MAY BE REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT. [Man. Ref. VII.C., VII.F.]
V40	VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 2.9 TIMES THE CAPACITY OF THE RESERVOIR.
V45	VM51THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

VOLUME (VM) (cont.)

<u>Reference Number</u>	<u>Description</u>
V50	VM51NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS AREA IS 2.00 ACRE-FEET PER ACRE. [Man. Ref. VII.C., VII.F.]
V55	VM51VOLUME MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. [Man. Ref. VII.C., VII.D., VII.F.]
V60	VM51THE CLAIMED VOLUME WAS NOT EXAMINED. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION COULD NOT BE IDENTIFIED. [Man. Ref. VIII.C.]
V65	VM51THE CLAIMED VOLUME MAY BE EXCESSIVE. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION APPEAR TO BE INACCURATE. [Man. Ref. VIII.C.]
V70	VM51THE CLAIMED VOLUME EXCEEDS THE 2.50 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. VIII.C., X.B.]
V75	VM51THE CLAIMED VOLUME EXCEEDS THE 2.00 ACRE-FEET GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 1.80 ACRE-FEET. [Man. Ref. VIII.C., X.B.]
V77	VM51VOLUME APPEARS TO BE EXCESSIVE FOR A BUCKET MEANS OF DIVERSION. [Man. Ref. VIII.C., IX.B., X.B.]
V80	VM51THE CLAIMED VOLUME APPEARS EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EXCEEDS THE GUIDELINE OF 3.00 ACRE-FEET PLUS A REASONABLE AMOUNT FOR EVAPORATION. [Man. Ref. VIII.C.]
V85	VM51VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 24.0 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE. [Man. Ref. VIII.C., X.B.]
V90	VM51NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 2.00 ACRE-FEET PER YEAR. [Man. Ref. VIII.C., IX.B., X.B.]
V95	VM51NO VOLUME HAS BEEN CLAIMED.

VOLUME (VM) (cont.)

Reference Number	Description
V96	VM51THE VOLUME HAS NOT BEEN EXAMINED AS NO QUANTIFIED VOLUME WAS CLAIMED.
V97	VM51NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 2.50 ACRE-FEET PER YEAR. [Man. Ref. VIII.C.]
V100	VM51THE CLAIMED VOLUME APPEARS TO/MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. VIII.B., IX.B., X.B.]
V105	VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 2.30 ACRE-FEET.
****	VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 63 GPD PER ANIMAL UNIT. [Man. Ref. IX.B.]
V111	VM51THE CLAIMED VOLUME CANNOT BE CONFIRMED DUE TO LACK OF DATA. [Man. Ref. VIII.B., IX.B., X.B.]
V115	VM51THE CLAIMED VOLUME APPEARS TO EXCEED THE REASONABLE AND CUSTOMARY VOLUME FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 4.80 ACRE-FEET PER YEAR. [Man. Ref. X.B.]
V120	VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUGGEST THE ACTUAL VOLUME IS 1.20 ACRE-FEET PER YEAR. [Man. Ref. X.B.]
****	VM51THE MANUAL OF INDIVIDUAL WATER SUPPLY SYSTEMS DESCRIBES A YEARLY WATER REQUIREMENT OF 3.20 ACRE- FEET FOR THE CLAIMED PURPOSE. [Man. Ref. X.B.]
V130	VM51THE CLAIMED VOLUME EXCEEDS THE 2.00 ACRE- FEET GUIDELINE FOR AGRICULTURAL SPRAYING. [Man. Ref. X.B.]
V135	VM51THE CLAIMED VOLUME MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME IS 600 GALLONS PER CAPITA PER DAY (GCPD) BASED ON THE 1980 CENSUS POPULATION OF 2,518 PEOPLE. [Man. Ref. X.B.]

Manual Reference: VII.C., VII.F., VIII.C., IX.B., X.B.
(For VM Remarks With No Manual Reference)

FEDERAL AND INDIAN RESERVED WATER RIGHT REMARKS

<u>Reference Number</u>	<u>Description</u>
	Remarks used with examination of claims within Fort Peck Indian Reservation.
C64	CL01THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE FORT PECK INDIAN RESERVATION.
M9	MS51FROM DNRC REVIEW, THE FOLLOWING ELEMENTS OF THIS CLAIM MAY NEED REFINEMENT AND CLARIFICATION: POINT OF DIVERSION, MEANS OF DIVERSION, PLACE OF USE.
P990	PR51IT IS NOT CLEAR WHETHER THIS CLAIM IS A STATE-BASED WATER RIGHT OR PART OF THE TRIBAL WATER RIGHT AS DEFINED IN THE 1985 FORT PECK-MONTANA COMPACT.
P991	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. BASED ON INFORMATION IN THE CLAIM FILE, THIS CLAIM MAY BE PART OF THE TRIBAL WATER RIGHT ACCORDING TO ARTICLE III.B.4. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P992	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. BASED ON INFORMATION IN THE CLAIM FILE, THIS CLAIM MAY BE PART OF THE TRIBAL WATER RIGHT ACCORDING TO ARTICLE III.B.1 AND 6. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P993	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. BASED ON INFORMATION IN THE CLAIM FILE, THIS CLAIM MAY BE PART OF THE TRIBAL WATER RIGHT ACCORDING TO ARTICLE III.B.2. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P994	PR51THIS CLAIM MAY BE PART OF THE TRIBAL WATER RIGHT ACCORDING TO ARTICLE III.A. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P995	PR51THIS CLAIM MAY BE PART OF THE TRIBAL WATER RIGHT ACCORDING TO ARTICLE III.B.3. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.

**FEDERAL AND INDIAN RESERVED WATER RIGHT
REMARKS (cont.)**

<u>Reference Number</u>	<u>Description</u>
P996	PR51AS THE TYPE OF HISTORICAL RIGHT CLAIMED IS BASED ON THE TRIBAL WATER RIGHT CONFIRMED IN THE FORT PECK-MONTANA COMPACT, THIS CLAIM HAS NOT BEEN EXAMINED UNDER THE SUPREME COURT WATER RIGHT CLAIM EXAMINATION RULES.
P997	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. THIS CLAIM MAY BE A STATE-LAW WATER RIGHT ACCORDING TO ARTICLE III.I. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P998	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. THIS CLAIM MAY BE A STATE-LAW WATER RIGHT ACCORDING TO ARTICLE III.A. OF THE FORT PECK-MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.
P999	PR51THE CLAIMED TYPE OF HISTORICAL RIGHT IS QUESTIONABLE. THE TRIBES AND THE UNITED STATES HAVE NOT IDENTIFIED THIS RIGHT AS BEING PART OF THE TRIBAL WATER RIGHT OR AS A FEDERAL RESERVED WATER RIGHT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.

WATER COURT REMARKS

After objections to a claim have been resolved, the water master makes revisions to a copy of the previous decree abstract and sends it to the department to update the computer. As the following remarks are used frequently by the water masters when making their revisions, they have been assigned reference numbers and added to the formatted remarks library.

CLARIFICATION OF LAND DESCRIPTION

C6 CL01THE ALIQUOT PART W2 IS ADDED TO THE DESCRIPTION ONLY TO FACILITATE LOCATION. THE ALIQUOT PART IS NOT AN ELEMENT OF THE LEGAL DESCRIPTION OF THE GOVERNMENT LOT.

FLOW RATE

F81 FR01THE WATER COURT HAS DETERMINED THAT A FLOW RATE QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

GRAY AREA

G965 GA51THE TIMELY FILED OBJECTION OF JOHN L. DOE WAS AMENDED BY JOHN L. DOE TO INCLUDE PLACE OF USE AND ACRES IRRIGATED. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

G970 GA51THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

G971 GA51A LATE OBJECTION HAS BEEN FILED TO THE FLOW RATE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

G975 GA51THE CLAIMED VOLUME EXCEEDS MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

GRAY AREA (cont.)

- G980 GA51THE POINT OF DIVERSION MAY BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SWSWSW SEC 30 TWP 02S RGE 13E SWEET GRASS COUNTY. SEE DNRC MEMORANDUM DATED MM/DD/YY.
- G981 GA51THE MEANS OF DIVERSION MAY BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE DIRECT FROM SOURCE. SEE DNRC MEMORANDUM DATED MM/DD/YY.
- G985 GA51THE MEANS OF DIVERSION MAY BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE DIRECT FROM SOURCE.
- G986 GA51THE WATER COURT HAS BEEN PRESENTED WITH EVIDENCE INDICATING THE POINT OF DIVERSION AND MEANS OF DIVERSION MAY BE INCORRECT. THE POINT OF DIVERSION AND MEANS OF DIVERSION MAY BE SESESW SEC 24 TWP 02S RGE 06E GALLATIN COUNTY BY MEANS OF A HEADGATE.
- G990 GA51THIS CLAIM APPEARS TO INVOLVE STOCK DRINKING DIRECTLY FROM THE SOURCE. IT APPEARS THAT THE POINTS OF DIVERSION SHOULD CORRESPOND WITH THE PLACE OF USE.
- G995 GA51ALTHOUGH NOT OBJECTED TO, THE PLACE OF USE WAS CHANGED TO REFLECT THE REDUCTION/INCREASE IN MAXIMUM ACRES IRRIGATED.

PERIOD OF USE

- P127 PE01THE ACTUAL HISTORICAL PERIOD OF USE FOR THIS WATER RIGHT IS FROM APRIL 1 TO OCTOBER 20. COMPUTER PROGRAM LIMITATIONS DO NOT ALLOW THE CORRECT PERIOD OF USE TO BE PRINTED ABOVE.

PRIORITY DATE

- P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(2) MCA.

TERMINATED CLAIM

- T6 TC01THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT DURING ADJUDICATION OF THE TEMPORARY PRELIMINARY DECREE.
- T7 TC01THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT DURING ADJUDICATION OF THE TEMPORARY PRELIMINARY DECREE. THIS CLAIM WAS DUPLICATED BY CLAIM NO. W000000-00/IS REPLACED BY WATER RIGHT NO. C000000-00.

TRANSFER

T30 TR01 OWNERSHIP OF WATER RIGHT CHANGED BY ORDER OF THE WATER COURT ON MM/DD/YY.

T35 TR01 BASED ON THE PARTIES' STIPULATION, OWNERSHIP OF WATER RIGHT CHANGED BY ORDER OF THE WATER COURT ON MM/DD/YY.

VOLUME

V16 VM01 THIS USE IS ESSENTIALLY NON-CONSUMPTIVE. IN THE EVENT OF A SUBSEQUENT TRANSFER OR CHANGE OF THIS WATER RIGHT, THE USE SHALL BE DEEMED TO BE WHOLLY NON-CONSUMPTIVE.

V17 VM01 THE WATER COURT HAS DETERMINED THAT A VOLUME QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

V18 VM01 THE VOLUME QUANTIFICATION ON THIS CLAIM IS THE RESULT OF A STIPULATION FILED BY THE PARTIES WITH THE WATER COURT ON 08/25/88. THE COURT HAS MADE NO DETERMINATION AS TO THE NEED FOR A VOLUME QUANTIFICATION ON THIS CLAIM AS PROVIDED FOR IN 85-2-234 (6) (b) (iii) M.C.A.

TEMPORARY REMARKS

Permanent reference numbers for temporary remarks. Remark code and language in remarks can be replaced once another temporary remark is needed.

T981 GA51 THE MOTION OF THE COURT HAS BEEN AMENDED TO CONFORM WITH THE EVIDENCE SUBMITTED BY THE CLAIMANT TO INCLUDE CHANGES IN THE POINT OF DIVERSION AND PLACE OF USE. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE TEMPORARY PRELIMINARY DECREE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

T997 GA51A CLERICAL CORRECTION HAS BEEN MADE TO THE POINT OF DIVERSION. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHT MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

TEMPORARY REMARKS (cont.)

- T998 GA51A CLERICAL CORRECTION HAS BEEN MADE TO THE POINT OF DIVERSION AND PLACE OF USE. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHT MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.
- T999 GA51IN ACCORDANCE WITH THE DNRC MEMORANDUM OF MARCH 30, 1987, A CLERICAL CORRECTION HAS BEEN MADE TO CHANGE THE DECREED POINT OF DIVERSION TO A DNRC STANDARD LAND DESCRIPTION. BECAUSE THIS CORRECTION WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHT MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

VI. CLAIM EXAMINATION

This chapter contains instructions for the following areas of the claim examination process.

- A Checking For Correct Data Entry
- B Owner Name And Address
- C Purpose
- D Source
- E Additional Legal Land Descriptions
- F Point Of Diversion
- G Means Of Diversion
- H Reservoirs
- I Type Of Right
- J Priority Date
- K Period Of Use

These instructions pertain to all types of claims, i.e., irrigation, stock, domestic, and other uses. Subsequent chapters address procedures specific to each of the four general claim categories.

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A. CHECKING FOR CORRECT DATA ENTRY

1. Data Entry Review. The first step in examining a claim is to compare the data on the worksheet to the data on the claim form. This checks for proper and complete data entry into the department's computer data base. If inconsistencies are found, make sure they are errors before altering the worksheet.

a. Inconsistencies Between Claim Form And Worksheet. Not all differences between the claim and worksheet are data entry errors. Some differences that may occur are:

- Records section may have made corrections. Such corrections were generally clerical, e.g., errors missed during "clarification." There should be an explanation on the Statement of Claim Checklist or in the claim file.
- The claimant may have amended their claim. The file should be reviewed for amendments.
- The claim may have an associated transfer of ownership. If a change in ownership has occurred, there will be a transfer (TR) remark on the worksheet noting the date the transfer was received. See "Transfers", Chapter XI.
- The claim may have an associated change or sever/sell. If there is an associated change or sever/sell, there will be a change text (CT) remark on the worksheet explaining the scope and status of the change or sever/sell. See "Change In Appropriation Right", Chapter XI.
- Certain claimed source names were not keypunched at the time the claims were originally entered due to the computer data base structure, e.g., unnamed springs, certain named springs, named wells. See Source, section VI.C.
- As claims were originally entered into the computer data base, all flow rates in units of miner's inches (MI) were converted by the computer to cubic feet per second (C). Worksheets that have flow rate in cubic feet per second units also have equivalent miner's inch units in parenthesis. Conversions back to miner's inches will not always be exact due to rounding error. Such rounding errors need not be corrected.

b. Correcting Data Entry Errors. When an examination worksheet contains data entry errors, corrections can be made directly on the worksheet. Check "DNRC Error" in the examination information area.

If a large amount of data was input incorrectly or omitted, the worksheet and copies of the pertinent information from the claim

file may be sent to the records section for data base entry and microfilming. Include a request for a new examination worksheet.

2. Checking Date Received. Compare the date received on the worksheet to the date stamped on the claim form. The dates should be the same.

Claim forms were first available in November 1979, so no dates should be earlier than that. If a date received is earlier than November 1979, check the claim file and transmittal record (that tracked the fee) for a correct date.

Other possible errors may be encountered involving the date a claim form was received by the department. Some of these are:

- date improperly entered into computer;
- date stamp improperly set or advanced; or
(e.g., not April 31, not Saturday or Sunday)
- date implied claim generated used, not date original claim was received. (If the claim is an implied claim, confirm that the date received is the same as the originally filed claim from which the implied claim was generated.)

If the claim received date indicates a late filing between April 30, 1982 and June 30, 1982, check the claim file and transmittal record to confirm the date received. This ensures that an error in stamping is not misunderstood to be a late claim. If the claim appears to truly be a late claim, see "Special Provisions: Late Claims" for examination procedures.

Indicate whether or not the date received appears to have been correctly stamped and entered into the computer by checking the appropriate box next to the "claim received" on the examination worksheet. Changes to the date received can be made directly on the worksheet. To document any inconsistencies involving the date stamped on the claim form, or basis for changing the date received on the worksheet, use the General Comments area of the worksheet.

If a claim designated as late is determined not to be late, the worksheet should be sent to the records section immediately. This will ensure the integrity and accuracy of the data base for public use. Include a request for a new examination worksheet.

3. Checking Fee Paid. Filing fees for claims were required pursuant to §85-2-225, MCA. The fee status of a claim can be determined by checking the upper lefthand corner of the claim form (see Figure XI-3).

When a filing fee was required but not submitted, check the claim file and transmittal record to confirm the fee status. In addition, review the other claims submitted by the claimant. If

confirmed that a required filing fee was not submitted, contact the claimant.

An exception to the filing fee requirement, as described in §85-2-225, are those claims where the type of historical right claimed is decreed. However, if the type of right is amended or clarified to a use or filed right, a filing fee will be required. If confirmed a filing fee was not submitted, contact the claimant.

If the fee issue is unresolved, add a remark to the department's examination report for all the claims involved.

Examples: F5 FI51FILING FEE INSUFFICIENT TO COVER CLAIM. TOTAL AMOUNT DUE \$40.00.

F10 FI51FILING FEE INSUFFICIENT TO COVER CLAIMS. TOTAL AMOUNT DUE \$120.00 FOR CLAIM NOS. W000000-00, W000000-00, W000000-00.

Implied Claims. Filing fees are required for implied claims. Refer to "Special Provisions" chapter for fee review instructions.

Late Claims. Filing fees are required for late claims. If a filing fee for a late claim has not been received, add an issue remark for all the late claims involved.

Examples: F25 FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$40.00.

F30 FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIMS. TOTAL AMOUNT DUE \$80.00 FOR CLAIM NOS. W000000-00, W999999-00.

As of July 1, 1993, late claims received by the department are also subject to a \$150 processing fee. However, this fee does not apply to exempt claims. Depending on when the late claim was received, follow the procedures described below.

- Late Claim Received Between April 30, 1982 and June 30, 1993. For late claims received by the department between April 30, 1982 and June 30, 1993, the processing fee will be collected according to procedures established by rules prepared by the department. If the processing fee is voluntarily paid prior to it being collected, immediately notify the program manager of the claim number.
- Late Claim Received After June 30, 1993. A processing fee must accompany late claims received after June 30, 1993. The exception is for late claims filed by a state agency which by department rule, will be collected later. If the processing fee is missing for a state agency claim, add the following issue remark to each late claim.

Example: F35 FI51PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM.
TOTAL AMOUNT DUE \$150.00.

Indicate by checking the appropriate box next to the "fee paid" on the examination worksheet whether or not the fee status is correct pursuant to §85-2-225, MCA. The "fee paid" should be the sum of the filing fee and processing fee. Changes to the fee paid can be made directly on the worksheet. To document any inconsistencies involving the fee paid on the claim form, or basis for changing the fee paid on the worksheet, use the General Comments area of the worksheet.

B. OWNER NAME AND ADDRESS

An owner is any person, as defined in §85-2-102, MCA, who has title or interest in water rights or properties. The name and address of the current owner is printed on the examination worksheet and decree abstract.

The name and address of the original claimant is stored in the computer data base for claims that have had a transfer of ownership filed with the department. If multiple transfers have occurred, only the original and current owner names are retained in the computer data base. Names of intermediate owners can be found in the claim file or on the microfilm record.

An owner may have name or address format variations on their claims, or an address may have changed. By establishing consistency in owner names and addresses, the quality of the computer data base for research is improved, plus owner indexes and listings become accurate and reliable.

1. Examining Owner Name And Address. Review the owner name and address to establish a consistent name format as well as a consistent and current address on all water rights belonging to each owner.

Standardization can be performed on the basin as a whole prior to or after examining the claims. It can also be done by ownership during claim examination. For common name and address abbreviations, see Exhibit IV-6.

In addition, check the claim form for the claimant signature and notarization.

a. Owner/Address Index. An index of all water rights (claims, permits, certificates) in a basin will be supplied before claim examination begins. This index is sorted alphabetically by owner name including address and water right ID number. Each name and address appears as it was keypunched into the computer data base. The owner/address index is the primary tool for identifying inconsistencies in owner names and addresses.

Common owner/address inconsistencies that might be identified are

- owner name format variations
- owner name misspelled
- clerical error in address
- lack of or incorrectly identified middle initial
- Bob versus Robert
- lack of Jr. or Sr.
- lack of Inc. or Co.

b. Changing Owner Name/Address. The claimed owner name/address will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department.

Upon identifying an owner/address inconsistency, the following data sources are available for researching.

- signature on back of claim form, permit application, certificate application
- accompanying documentation
- other water rights by the same owner
- telephone directories
- courthouse records
- claimant contact

Caution should be used in making changes to an owner name. A claimant may wish to have several name formats for a number of reasons, such as, taxation, inheritance purposes, contractual agreements, and corporate or ranch management purposes. In situations where an owner name format is not clear, contact the claimant. If a substantive change is to be made, e.g. adding a name omitted on one claim but named on others, it should be by an amendment.

Make changes to the owner name/address on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the owner name and address. The basis of the change must be documented in the claim file.

If a claimed owner name and address was inadvertently omitted from the data base, add it directly to the worksheet.

When owner name/address corrections need to be made in an ownership with multiple water rights, use an Name/Address Correction form (Exhibit VI-1). The form can be used when an examination worksheet is not available, such as prior to basin examination or post-decree. It may also be used to correct new appropriations files. Complete and process the form as follows:

- Following the standardized procedures outlined in the Owner Name/Address Standards manual (Exhibit IV-6), complete the form, except for the water right number.
- Photocopy sufficient copies of Exhibit VI-1.
- Complete the water right number so that one photocopy will exist for each file.
- Send the form(s) to the records section in Helena with instructions to update the owner record, and to film and file the form.

If the claim file contains a Form 608, Water Right Transfer Certificate, but the examination worksheet reflects the original (seller) owner, request a new examination worksheet which should reflect the new owner's name. As an alternative, a note such as "Ownership changed based on transfer received MM/DD/YY" can be placed next to the owner's name. No asterisk or checkmark is necessary as the owner record has already been updated in the computer and the transfer has been documented with a TR remark.

Water Supply Organizations. Organizations established for the distribution of water should remain solely in the organizations name. If the organization provides a listing of shareholders or member names, those individuals should not be listed as owners. No transfers or amendments should be sought from shareholders or individual members.

Some of the more common water supply organizations include:

Federal Projects	Water User Associations
State Projects	Municipal Water Companies
Public Service Corporations	Drainage Districts
Mutual Irrigation Companies	Conservation Districts
Water Companies	
Individuals (with several rights)	
Corporations, Partnerships, or Trusts (with several rights)	

c. Deceased Owner. When the owner is deceased and the estate is being handled by a trustee, retain the deceased owner's name. Add c/o the trustee or personal representative and their address as the new address.

If issues exist on a claim and the owner is deceased, discuss them with the personal representative or trustee. If the trustee or personal representative is unable to resolve the issues or does not have power of attorney, add issue remarks to the claim and document the discussions with the personal representative or trustee.

A deceased owner's name can be removed under certain terms and conditions. See Administrative Policy No. 14 "Water Right Transfer Certificate Processing Policy", Procedural Guidelines: Corrections. Following are situations which may occur.

- Husband or wife (or co-owner) dies and only one name is listed in the department records.
- Husband or wife (or co-owner) dies and both names are listed in the department records.

d. Signature And Notarization. If there appears to be a problem with the signature or notarization on the claim form, e.g., unsigned, not notarized, not signed by owner named in Item 1, add an ownership (OW) issue remark to the department's examination report.

Examples: O35 OW51CLAIM FORM NOT NOTARIZED.

O40 OW51CLAIM FORM NOT SIGNED OR NOTARIZED.

O45 OW51CLAIM FORM SIGNED BY OTHER THAN CLAIMANT.

The notarized signature of a guardian or person with power of attorney is acceptable, if supported by written or verbal confirmation. Document confirmation on the examination worksheet.

If contacted for other reasons, the claimant may be requested to sign and notarize a copy of the original claim form. In this situation, an issue remark would not be necessary.

2. Owner Name/Address Issues. Identify pertinent owner name/address issues discovered during claim examination on the department's examination report using an ownership (OW) remark. For certain ownership issues, refer to the following sections.

- Overlapping POU. See Irrigation: Place Of Use Issues
- Decreed Right Exceeded. See Irrigation: Flow Rate: Recording Documentation

3. New Owner Determined But File Lacks Transfer Certificate. When a change in ownership has occurred but no transfer certificate (608) has been received, try to get a transfer filed by either the former owner or new owner. See Transfers, Chapter XI.

Important - until a transfer has been properly filed, instructions or amendments from new owners should not be used to alter a claim. Accept and document information by the new owner, but do not incorporate it until the transfer is received.

If a transfer certificate is not received, then add the following remark to the claim file.

Examples: O50 OW51AS OF MM/DD/YY, THIS WATER RIGHT APPEARS TO BE OWNED BY JOHN L. AND JANE W. DOE, 5793 BOXWOOD DR, BOZEMAN, MT 59715.

O85 OW51VALLEY COUNTY RECORDS AS OF MM/DD/YY SHOWS PLACE OF USE IS OWNED BY MOLVIG BROTHERS.

C. PURPOSE

The purpose of a water right is the beneficial use for which it has historically been used.

1. Identifying Claimed Purpose. Using the information in the claim file, check the purpose on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed purpose is unclear, contact the claimant.

2. Examining Claimed Purpose. Review the purpose stated on a claim form and the submitted documentation to confirm that the water has been used historically (i.e., before 1973) for the claimed purpose. Review any available and relevant data sources, such as

- the claim file
- returned questionnaires
- Water Resource Surveys
- city directories
- local historical records
- mining indexes
- aerial photographs

The examiner's personal knowledge of an area, windshield surveys, claimant interviews, and field investigations are additional sources of information. Document each source of information used in the examination.

a. Standard Purpose Descriptions. Water rights used for similar purposes will be made consistent by checking that the assigned purpose code on the examination worksheet is consistent with the purpose guidelines described below.

Other Use Claims. Due to the general nature of the purpose categories listed on the other uses claim form, similar or identical uses of water were often claimed under different purpose categories. For example, water for an ore concentrator may have been claimed as a mining use (MN) by one claimant, but as an industrial use (IN) by another. A gravel washing plant may have been designated as commercial (CM) during initial clarification, which should now be changed to mining (MN).

Use the claim form, returned questionnaire, and any claimant contact to determine whether the claimed purpose is consistent with the categories listed in Figure VI-1.

Additional standard descriptions may have to be developed as claim examination progresses and additional purposes are encountered. To assure statewide uniformity the program manager will be involved in the review and categorization of additional purposes.

FIGURE VI-1

STANDARD PURPOSE LIST

AGRICULTURAL SPRAYING (AS)

Miscellaneous agricultural spraying.

COMMERCIAL (CM)

Campground (private), hospital (private), nursing home (private), store, restaurant, service station, bar, tavern lounge, dude ranch, rental cabins, pay-to-fish pond, hot spring resort, hotel, motel, club, athletic club, theater, car wash, mobile home park, apartments, cemetery, golf course, airport, office complex, office building, marina.

DEWATERING (DE)

Purpose is to remove water from an area to allow other activities such as: habitation, raising crops, construction. This purpose is questioned as a beneficial use unless the water is diverted to a beneficial use such as irrigation, in which case the purpose should be standardized to irrigation.

DOMESTIC (DM)

Single family dwelling, occupied by owner or rented. Criteria to substantiate this purpose include:

- Water used in household.
- Household characterized by long term occupancy (i.e., one month or more.)
- May include irrigation of lawn, garden, shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.

EROSION CONTROL (EC)

Generally a dike or series of dikes to impede the flow of water thereby reducing erosion. This purpose is questioned as a beneficial use unless the water is diverted to a beneficial use such as irrigation, in which case the purpose should be standardized to irrigation.

FLOOD CONTROL (FC)

Usually an impoundment, may not be beneficial use.

FIRE PROTECTION (FP)

System in place only to extinguish fires. If the system is used for another purpose, that other purpose should be the purpose of the water right with fire protection remarked as an incidental use.

FIGURE VI-1 (cont.)

FISH RACEWAYS (FR)

Confinement structures such as tanks or troughs with flow through water systems used for intensive fish breeding and raising.

FISH AND WILDLIFE (FW)

Fish pond, reservoir, instream flow to protect habitat (Murphy Right).

GEOTHERMAL HEATING (GH)

Heating of private buildings with geothermal water.

INDUSTRIAL (IN)

Oil refinery, sugar beet refinery, meat packing plant, coke ovens, sawmill, aluminum reduction, ore smelter, any use incidental to these plants or factories.

INSTITUTIONAL (IS)

School, church, hospital (government), nursing home (government), missile sites, DFWP fishing access site, DFWP parks, DOT maintenance shop, highway rest area, border crossing station, USFS picnic area, USFS campground, USFS guard station, USFS lookout, USFS ranger station, or other government facilities.

IRRIGATION (IR)

Irrigation of pastures, cropped forage used as fodder, or products sold commercially.

LAWN AND GARDEN (LG)

Private gardening, private ornamental horticulture, lawn, not cropped or foraged. Criteria to substantiate this purpose include:

- Not used in a household.
- Use is proximate to and associated with one or more households.
- May include irrigation of shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.

MUNICIPAL (MC)

Any use associated with a municipal water system, which may include individual water rights for a cemetery, parks, golf course, etc. See Exhibit X-11 for a partial list of municipal systems.

MULTIPLE DOMESTIC (MD)

More than one dwelling, characterized by long term occupancy. Condominiums, townhouses, home owner's associations, two or more households in separate dwellings

FIGURE VI-1 (cont.)

sharing a well or spring. See Chapter VIII. Criteria to substantiate this purpose include:

- Water used in two or more households in separate dwelling units.
- Households characterized by long term occupancy (i.e., one month or more).
- May include irrigation of lawn, garden, shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.
- Does not include political entities or publicly regulated private utilities.

MINING (MN)

Extraction or milling of ore, gravel washing, uses incidental to these purposes.

NAVIGATION (NV)

Instream flow to protect navigation, impoundment to store water against future inadequate flows.

OIL WELL FLOODING (OF)

Oil well flooding.

OBSERVATION AND TESTING (OT)

Wells used exclusively to monitor aquifers for recharge, drawdown, water quality, etc.

POLLUTION ABATEMENT (PA)

Systems used to reduce pollution by the addition or application of water. Usually associated with a commercial, industrial, mining, or other more primary activity; in such cases the purpose should be standardized to the primary activity. If not associated, this purpose is questioned as a beneficial use.

POWER GENERATION (PG)

Mechanical, geothermal, fossil fuel, hydroelectric or nuclear power production.

RECREATION (RC)

Pond or reservoir, instream recreational use.

SEDIMENT CONTROL (SC)

Generally settling ponds for filtering or syphoning water to remove sediments. Usually associated with an industrial or mining operation; in which case the purpose should be standardized to the primary operation. If not associated, this purpose is questioned as a beneficial use.

FIGURE VI-1 (cont.)

STOCK (ST)

Domestic animals, such as, but not limited to, cows, horses, sheep, pigs.

STORAGE (SG)

Usually associated with a reservoir operation.

WILDLIFE (WI)

Claim by person or agency for water used by wildlife, water used by wildlife kept as stock is STOCK (ST). Claims for waterfowl purposes should be standardized to wildlife (WI) or stock (ST).

Domestic Claims. During the claim filing period, the domestic claim form was used to describe several different types of water use, including domestic (DM), multiple domestic (MD), and lawn and garden irrigation (LG). Generally, all of these uses were assigned a domestic (DM) purpose code.

For consistency, claims describing multiple domestic and lawn and garden use should now be assigned the appropriate purpose code. See Figure VI-1 for guidelines on which purpose code should be assigned.

Claims to lawn and garden use should be examined using the domestic use guidelines.

b. Changing The Purpose. If the claim file and, when available, a completed questionnaire provide a clear picture of historic water use, the claimed purpose description should reflect that use. A claimed purpose may be changed to one of the standardized purpose descriptions in order to consistently identify similar purposes. Make such a change by crossing out the claimed purpose on the examination worksheet and writing in the standard purpose code. Document the change on the worksheet by placing an asterisk in the brackets to the left of the purpose heading, and by stating the reasons in the comments area.

If the claim file is unclear about the purpose being claimed, the claimant should be contacted. For example, a domestic claim could be unclear whether it is lawn and garden only, one household, or more than one household. If claimant contact is unsuccessful, leave the purpose code as DM and add the following remark:

Example: P625 PU51CLAIMED PURPOSE OF USE COULD NOT BE IDENTIFIED
DUE TO LACK OF DATA.

c. Further Defining Purpose. The standard purpose types provide reviewers of decrees and department records with little information about how a water right was actually used. When the claim file or outside data sources identify a specific use, add a purpose remark to the department's examination report to more precisely describe the purpose. Document the source of the information on the worksheet. When the specific purpose is not clear from the claim file, questionnaire, or other information, claimant contact should be considered.

Remarks that might further define the purpose include:

- Mining:	P565 PU01PLACER MINING
- Commercial:	PU01DAIRY
- Commercial:	PU01RESTAURANT
- Commercial:	PU01CONVENIENCE STORE AND SERVICE STATION
- Industrial:	PU01SMELTER
- Industrial:	PU01SAWMILL WITH LOG POND
- Institutional:	PU01CHURCH

- Institutional: PU01FISHING ACCESS SITE
- Power Generation: PU01HYDROPOWER
- Power Generation: PU01COAL FIRED ELECTRIC POWER PLANT

d. Post-1973 Change Of Purpose. If the claimed purpose appears to be for a use that was different before July 1, 1973, follow the procedures in section XI.F. Changes.

3. Purpose Issues. Denote all unresolved purpose issues on the department's examination report using a purpose (PU) remark. Any unique aspects or features of the purpose should be identified in a purpose remark, i.e., PU01.

Generally purpose issues will become apparent and be resolved as a result of examining other elements of a claim, such as flow rate, volume, place of use, point of diversion, and priority date. For example, if an aerial photo used to verify the place of use of a claim for fish raceways does not show evidence of raceways, the place of use and purpose both become issues. Purpose issues will also become apparent when applying the purpose consistency guidelines.

When a purpose issue remark is added identifying extended nonuse, a nonperfected use, or some other major discrepancy, examine the other elements as if the water right is being used for the claimed purpose in case the purpose issue is not addressed by objections or the court. Add issue remarks to these elements if they do not meet the pertinent guidelines or review criteria. For example, assuming an irrigation claim:

- flow rate below 17 gpm/ac, no issue remark may be needed
- volume will be zero, no issue remark needed
- POU partially irrigated, add PL and FR issue remarks
- priority date is not documented, add issue remark.

a. Fish & Wildlife, Wildlife, And Recreation.

On 9-24-2002, the Montana Supreme Courts overruled its 1988 decision, *In the Matter of Dearborn Drainage Area* (1988), 234 Mont. 331, 766 P.2d 228 (Bean Lake), that "Montana, prior to 1973, did not recognize fish, wildlife and recreation appropriations, whether diversionary or non-diversionary."

The 9-24-2002 opinion held that recreation, fish and wildlife uses are beneficial and that valid instream and inlake uses existed prior to 1973 where the intended beneficial use did not require a diversion, and when the facts and circumstances indicate that notice of the appropriator's intent had been given.

The Supreme Court instructed the Water Court to hold hearings in a manner similar to *Adjudication of Water Rights of Yellowstone River* (1992), 253 Mont. 167, 832 P.2d 1210, on all pre-1973 recreation, fish and wildlife claims, both diversionary and non-diversionary, and determine the validity of such claims

In accordance with the Supreme Court Ruling and to provide notice to all other water users, each recreation, fish, and wildlife claim examined should have the following issue remark:

P723 THE MONTANA SUPREME COURT HAS INSTRUCTED THE WATER COURT TO HOLD A HEARING ON THIS CLAIM TO DETERMINE ITS VALIDITY. IN THE MATTER OF THE MISSOURI RIVER DRAINAGE AREA, 2002 MT 216, 311 MONT. 327.

Refer to "Other Uses Claims: Flow Rate and Volume" for guidelines on examining flow rates and volumes.

b. Questionable Purposes. The following are guidelines for uses considered questionable. Other uses not listed should be brought to the attention of the program manager.

Dewatering, Erosion Control, Flood Control (dikes, levees, impoundments), Navigation. If it is not clear whether the claim describes one of these water uses or water management practices, contact the claimant. After confirming a questionable use exists, add the following issue remark to the department's examination report.

Example: P630 PU51THIS CLAIMED PURPOSE IS QUESTIONED AS A BENEFICIAL USE OF WATER EXISTING PRIOR TO JULY 1, 1973.

For these questionable uses do not examine the flow rates and volumes. The flow rate and volume of such claims will be decreed as claimed. When a value for flow rate or volume is claimed but not examined, add the appropriate following remark to the department's examination report.

Examples: F85 FR51THE CLAIMED FLOW RATE WAS NOT EXAMINED AS NO FLOW RATE GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

V25 VM51THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

Natural Overflow. For irrigation claims where the means of diversion is natural overflow, add the following issue remark to the department's examination report.

Example: P644 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THERE APPEARS TO BE NO APPROPRIATION OF WATER. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

Dewatering, Erosion Control, Pollution Abatement, Sediment Control. These uses are questioned as beneficial uses unless the water is used for a specific purpose such as irrigation, mining, industrial, etc. For example, a pollution abatement claim may be used for watering a sawdust pile at a lumber mill. In this situation, the purpose should be standardized to industrial (IN) with a specific purpose remark describing the use.

c. Specific Purpose Not Claimed. Some claimants wrote descriptions of their water use on the claim form, and did not check any of the purposes listed on the form. The policy during the claim filing period required categorizing the described purpose into one of the 26 purpose types available in the computer data base. When reviewing such claims, check the purpose code that was assigned to determine whether it is consistent with the purpose guidelines.

If the claim file contains insufficient data to determine the purpose, contact the claimant. Before contacting the claimant, consult outside data sources, if available. When those data sources indicate that substantive purpose issues also exist, (e.g., 10 or more years of nonuse, water right never perfected, purpose changed to claimed purpose after 1973) discuss those issues with the claimant. If changing the purpose would more accurately characterize the water right, the claimant may wish to amend the claim.

When purpose cannot be clearly identified, add an issue remark to the department's examination report:

Example: P625 PU51THE CLAIMED PURPOSE (USE) COULD NOT BE IDENTIFIED
DUE TO LACK OF DATA.

d. Multiple Purposes Claimed. Claims may be encountered (generally other use claims) where more than one use has been identified. Only one purpose will appear on the examination worksheet. In this situation, the claimant should be contacted to determine what is actually being claimed. Refer to section XI.B., Implied Claims.

If the issue is unresolved, add the following remark to the department's examination report.

Example: P637 PU51THE PURPOSE OF THIS CLAIM IS UNCLEAR AS MULTIPLE
PURPOSES HAVE BEEN CLAIMED. THE CLAIMED PURPOSES
INCLUDE RECREATION AND COMMERCIAL. MORE THAN ONE
WATER RIGHT MAY BE INVOLVED.

Fire Protection. An exception to the claimant contact and water court authorization called for in section XI.B. is when one of two claimed purposes is fire protection. Whenever fire protection is claimed as an additional purpose, identify it by adding the following incidental use remark to the decree abstract.

Example: P555 PU01THIS WATER RIGHT IS INCIDENTALLY USED FOR FIRE PROTECTION.

e. Claimed Purpose Not Perfected. For claims where it is apparent the right has never been perfected, document these findings thoroughly in the claim file. If a nonperfected claim is not withdrawn by the claimant, add a remark to the department's examination report.

Examples: P639 PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT. IT APPEARS THIS WATER RIGHT MAY HAVE NOT BEEN PERFECTED.

**** PU51THE RIDDLE COUNTY WATER RESOURCES SURVEY (1959) INDICATES THIS MUNICIPAL CLAIM WAS NOT PERFECTED.

P644 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THERE APPEARS TO BE NO APPROPRIATION OF WATER. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

P650 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, NO WELL EXISTS FOR THIS CLAIM. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

THE HEADGATE AND DITCH ARE AT A LOWER ELEVATION THAN THE CLAIMED PLACE OF USE.

WATER FROM THE MAIN DITCH HAS NEVER BEEN USED FOR HOUSEHOLD PURPOSES.

P655 PU51ACCORDING TO INFORMATION IN THE CLAIM FILE, THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED FOR IRRIGATION USE. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

The other water right elements for these claims may be vague or incomplete. If so, it is only necessary to add the following purpose issue remark to the department's examination report. However, issue remarks may be added to a specific element if there is relevant information in the claim file or if other data sources confirm nonuse. For example, if from available maps the existence of a historical conveyance facility or acres irrigated can not be identified, issue remarks may also be added to the point of diversion and place of use elements.

Example: P665 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. NO PURPOSE, SOURCE, POINT OF DIVERSION, MEANS OF DIVERSION, PRIORITY DATE, TYPE OF HISTORICAL RIGHT, FLOW RATE, VOLUME, PERIOD OF USE, OR PLACE OF USE HAVE BEEN CLAIMED. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

(Note: Two or more elements can be coded.)

The following is an example of nonperfected claims which would need to be remarked. The City of Kerbelville filed three municipal claims, each describing the same source, POD, conveyance system, and POU. Each of the claims is based on a different filed appropriation. However, the WRS field notes for Riddle County indicate only one of those filings has ever been perfected. Claimant contact indicates that the remaining filed appropriations were to extend and expand the conveyance system for proposed subdivisions, which were never begun, or not yet begun but are planned.

f. Extended Nonuse. The Van Cleave Mining Company filed a claim describing the use of spring water in their Dog Tired Gold Mine since 1902. However, the Montana Mining Indexes published from 1947 through 1973 do not make reference to the Dog Tired. The questionnaire returned by the claimant confirms that the mine has not been in operation for the past 40 years.

For extended nonuse situations, contact the claimant to discuss the data sources, and if necessary, arrange a field investigation. If the interview (and field investigation if conducted) supports the data sources, add a remark to the department's examination report.

Examples: P620 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. A FIELD INVESTIGATION CONDUCTED 03/15/84 FOUND NO EVIDENCE OF RECENT MINING ACTIVITY. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P675 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. THE RIGHT APPEARS TO HAVE LAST BEEN USED IN 1956.

P676 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT WAS LAST USED IN 1950.

P680 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT MAY NOT HAVE BEEN USED FOR THE PAST 40 YEARS.

Add the above remark only if there has not been any use of the water right for the claimed purpose during the entire 10 year period prior to July 1, 1973. If there is evidence that the water right was used for the claimed purpose during that period, even briefly, do not add the remark.

Data are insufficient to conclude that the water right was not used from 1963 or earlier to 1973, but a nonuse issue appears to exist, add the following remark to the department's examination report.

Example: P685 PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT FOR THE TEN CONSECUTIVE YEARS PRIOR TO JULY 1, 1973.

g. Claimed Purpose Differs From Formerly Decreed Purpose. Claims based on a formerly decreed right that specifically identifies a purpose should be for that purpose. Claims for surface water stock use associated to a right formerly decreed for irrigation are an exception. If the claimed purpose does not match the formerly decreed purpose, contact the claimant to determine whether the documentation is correct for the claimed purpose, or whether documentation of an amendment to the district court decree is available. If the issue is unresolved by an amendment to the claim or documentation of an amendment of the district court decree, add a remark to the department's examination report.

Example: P690 PU51THE CLAIMED PURPOSE DOES NOT MATCH THE FORMERLY
DECREED PURPOSE. CASE NO. 0000, WHEATLAND COUNTY
DECREED THE USE AS MINING.

4. Multiple Uses. The multiple use of a water right occurs when a single historic appropriation has been claimed for different purposes by a single claimant. The claimant may be the individual who originally filed the claims or a transferred owner. Multiple uses of a right for stock and irrigation, or irrigation and other uses are common.

A multiple use is determined through review of indexes, submitted documentation and the intent of each claim. First review the owner index to identify all claims under one ownership which have the same type of historical right and priority date. Review the claim files to determine if the owner is the original claimant or a transferred owner.

Next, cross reference the POU index to identify all the claims associated to each parcel or place of use. This will determine:

- if a multiple use exists between different owners of record which may occur when portional transfers have been filed
- any overlapping ownership situations

The conclusive identification of multiple use comes from close comparison of the documentation supporting the historical right upon which the claims are based. The following items must be the same for all claims when a multiple use exists.

- | | |
|----------------------------|---|
| Decreed and Filed Rights - | claimant, type of historical right, priority date, source and documentation must be the same. |
| Use Rights - | claimant, priority date, and source must be the same. |

When a multiple use situation is identified, add the following remark to the decree abstract of all claims involved:

Example: M10 MU01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES. W000000-00, W000000-00.

Late claims should be included in multiple use situations. Rights with prefixes of U, Z, J or O should not be included in multiple use remarks with "W" rights.

Situations may occur where a multiple use of a water right appears to exist, but cannot be confirmed. For example, a claimant files stock and domestic claims on a well, the type of right, priority date and documentation are the same, but the flow rates are different. Another example would be when documentation to support a single historic appropriation is submitted by a claimant on separate claims, but the type of historical right and/or priority dates differ.

Contacting the claimant to understand the situation is advised. If contact does not resolve the issue, add the following remarks to the department's examination report.

Examples: M20 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS MAY NEED A MULTIPLE USE REMARK. W000000-00, W000000-00.

M21 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS HAVE STATED DIFFERENT FLOW RATES. IT APPEARS THE FLOW RATE SHOULD BE THE CAPACITY OF THE PUMP. W000000-00, W000000-00.

M22 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE TO BE A MULTIPLE USE OF THE SAME RIGHT. IT APPEARS THE PRIORITY DATE IS JUNE 11, 1884 AND THE TYPE OF HISTORICAL RIGHT IS DECREED. W000001-00, W000000-00.

5. Associated Rights. If a claim (W) and an exempt right by a single owner are based on the same historical right, do not add a multiple use remark. Exempt rights are not included in the adjudication process. The association between the claim and exempt right should be made through an associated remark. The following remark should be added to the claim.

Example: A30 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. E000000-00. THEY ARE BASED ON THE SAME HISTORIC WATER RIGHT.

If a state-based claim ("W") and a federal claim ("U"), a post-1973 water right, or an exempt right (based on a different historical right), are used on the same development, they should be

related through an associated remark. One of the following remarks should be added to the claims ("W" and "U").

Examples: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME RESERVOIR/
POTHOLE LAKE/POINT OF DIVERSION. W000000-00,
E000000-00, C000000-00, P000000-00.

A40 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. P000000-00. THEY HAVE OVERLAPPING PLACES OF USE.

When the above situations involve exempt rights or post-1973 water rights, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. E000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This exempt right is associated to claim no. W000000-00. They are based on the same historic water right.

Put a copy of the flag (clearly marked "COPY") in the claim file. Send the flag to the Processing Unit in Helena, where an AS remark will be entered into the computer record and the flag will be filmed and filed.

ASSOCIATED FLAG

WATER RIGHT NO. _____

(film & file here)

IS ASSOCIATED WITH

WATER RIGHT NO. _____

WR's ARE ASSOCIATED BECAUSE: _____

CODED (initials)

DATE

COMPLETED BY: _____

DATE _____

D. SOURCE NAME

The source is the specific natural supply from which water is appropriated for a beneficial use. A single source may have several names applied to it by claimants. By standardizing source names for consistency, the quality of the computer data base for researching is improved, plus source name indexes and listings become accurate and reliable.

1. Basinwide Standardization System. This section describes the preparation of a single, permanent reference index on maps or aeriels of all standard source names within a basin. This reference index can be developed prior to examining claims within the basin or can be developed as the basin claims are examined.

In some areas of Montana, almost every source on a USGS map is named. In these areas, it is possible to standardize stream names as claims are examined. Other parts of Montana do not have the USGS coverage or only a few of the watercourses are named on the USGS maps. In these areas, stream name standardization is best done prior to claim examination.

When standardizing source names as claims are examined, care must be taken that every claim on a source receive the same name. For example, a USGS UT source is claimed by some as an UT and by others as a colloquial name. When claims specifying UT as the source are examined first and later claims use the colloquial name, all the claims must be located and standardized.

The following procedure was designed to develop a single, permanent reference index of all standardized source names. The procedure is intended to be applied before individual claim examination.

- Resources needed:
 - a) USGS topographic maps for basin
 - b) WRS for the county(ies)
 - c) POD index for the basin
 - d) Source name index for the basin
- Systematically, examine the POD index, WRS, and USGS quad for each township. The POD index is useful since it lists claimed source names township by township.
 - i) If a claimed source name agrees with the USGS topographic map, go to the next claimed name on the POD index. If a claimed source name disagrees with the USGS, the USGS name will usually be kept.
 - ii) If a claimed name is an UT on the USGS topographic map, check the WRS. If the WRS name agrees with the claimed name, write that name on the USGS topographic map.

- iii) If a claimed source name disagrees with the WRS, check to see if only one claim disagrees or if all claims on the source disagree. Then decide whether to adopt the WRS name or the colloquial name.
- iv) If a claimed name is an UT on both the USGS topographic map and the WRS (or there is no WRS for the township), check the POD index for colloquial names. Check the source name index to see if the colloquial name identifies more than one source. Once you've determined how many different names are claimed for this source and how often each is used - standardize to one of them or leave the source as an UT. Write the standard name on the USGS topographic map.
- v) Generally, an UT on the USGS topographic map will not be given a WRS name unless someone specifies that name on their claim.

- This sequence takes care of colloquial names as they come up. It provides a source name resource that is easily used. There is little chance that claimed source names will not be consistently standardized.

2. Identifying The Claimed Source. Using the information in the claim file, check the source name identified on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed source is unclear, contact the claimant. An amendment identifying the claimed source may be necessary.

3. Examining Source Name. The claimed source name will be checked to establish a consistent name for each source.

a. Source Name Review. The source indicated on the claim and worksheet will be compared with various data sources. In order of preference, the three primary authorities for standardizing source names are

- USGS topographic maps
- Water Resources Survey (WRS) maps
- colloquial names on claims

In areas without USGS topographic map coverage, Bureau of Land Management (BLM) maps and US Forest Service maps are a good resource.

The criteria for a colloquial name (a name of local recognition) will be when a source not named on the USGS map or WRS is named consistently by the majority of the owners claiming it. Generally, the retention of a colloquial name would occur when multiple water rights by different owners exist for the source.

Standardize the claimed source name to match the preferred authority. When the evidence shows that the primary authority is incorrect, refer to the next level or most accurate authority. Example: a stream named Russell Creek on the USGS map was called Russell Coulee by 12 of 13 claimants. The WRS and County Notice of Appropriation Index supported the latter name; therefore, Russell Coulee became the accepted standard.

b. Changing Source Name. Make any corrections to the claimed source name directly on the worksheet. When a claimed source name is changed, note the change by placing an asterisk in the left hand margin of the examination worksheet.

Proper spelling, spacing, and composition of the source name is imperative. The computer data base limits the length of source names to 33 characters. See Exhibit III-1 for proper abbreviations and Chapter IV.D.: Source Name Coding Consistency.

c. Surface Or Groundwater Check. This area of the worksheet will be used by the reviewer to check the source type. Source types are broadly defined as:

Groundwater (G)	- well or developed spring
Surface Water (S)	- stream, lake, reservoir, or undeveloped spring

Based on source name standardization and the examination procedures, the source type should reflect the broad definitions. When a claimed source type is changed, note the change by placing a checkmark in the left hand margin of the examination worksheet.

Assign source type codes to the identified source as identified on Figure VI-3. For claimed source types not listed on Figure VI-3, consult the water resource specialist or program manager.

d. Computer Storage And Retrieval. The computer data base is set up to store a source name with each diversion record. Therefore, a different source name may be retained for each diversion record. But, because the claim form allowed only one source possibility, the source entered into the computer for each diversion is the same. To print the source name on worksheets and abstracts, the computer retrieves the source name from the first diversion record (DV01). All source names stored with PODs will appear in POD and Source Name indexes.

Retaining Multiple Source Names. If examination determines the diversions to be on different sources, correct the source names in the appropriate diversion record so that the indexes (source, and POD) will be accurate. Source names different from that listed on the worksheet (DV01) may be added in one of the two following manners.

- Unnamed Tributaries. In the POD legals is a heading entitled "TRIB." If the source is on an unnamed tributary

FIGURE VI-3

SOURCE TYPES

<u>Claimed or Documented Source Name</u>	<u>Type Code</u>	<u>Acceptable Source Name for Examination Worksheet</u>
1. Groundwater Well	G	Well
2. Developed Spring(s) (spring name meets standardization criteria)	G	Spring Name (Standardized Spring Name)
Developed Spring(s) (spring name does not meet standardization criteria)	G	Spring, Trib of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
3. Undeveloped Spring(s) (single point source, spring name meets standardization criteria)	S	Spring Name (Standardized Spring Name)
Undeveloped Spring(s) (single point source, spring name does not meet standardization criteria)	S	Spring, Trib of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
Undeveloped Spring(s) (broad POD description, spring name meets standardization criteria)	S	UT (unnamed tributary) of _____
Undeveloped Spring(s) (broad POD description, spring name does not meet standardization criteria)	S	UT (unnamed tributary) of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
4. Drain Ditch Waste Water Waste and Seepage Seepage Drainage Collection Ditch or Collection Box	S	Waste and Seepage, Trib of _____ (Note: a source name remark may be used to retain claimed or documented source names.)
5. Subirrigation	G	Subirrigation, Trib of _____
6. Swamp Marsh Diffuse Surface Water Runoff	S	UT (unnamed tributary) of _____ (Note: a source name remark may be used to retain claimed or documented source name.)
7. Natural Pit(s) Manmade Pit(s) Glacial Kettle(s) Natural Sink(s) USGS Named Stream Closed Basin UT Closed Basin	S	See instructions under VI.D.8.d.
8. Groundwater Pit(s)	G	Manmade Pit, Trib of _____ Natural Pit, Trib of _____
9. Natural Overflow	S	Standardized named stream or UT (unnamed tributary) of _____. (Note: a source name remark may be used to retain claimed or documented source name.)
10. All Other Names		Discuss with water resource specialist and regional manager. If still unresolved, bring to program manager's attention.

there should be a "Y" listed in the TRIB column. To change a source name to "Unnamed Tributary of" for a POD other than DV01, place a "Y" in the TRIB space of the appropriate POD. This will list the unnamed tributary in indexes. Add a source name remark to identify the unnamed tributary on the decree abstract.

Example: S10 SN01POINT OF DIVERSION NO. 4 IS ON AN UNNAMED
TRIBUTARY OF STONEY CREEK.

- Named Sources. Claims with PODs on separate named sources are likely to be implied claims. See "Source Name Issues: PODs on Multiple Sources". To retain additional source names for one water right, use a POD code sheet to add the source name pertaining to the POD not listed as DV01. Use "C" as the Action code to indicate a change to the existing record, and complete all areas of the POD record on the code sheet. This will list the additional source names in indexes. Add a source name remark to identify the second source name on the decree abstract.

Example: S25 SN01POINT OF DIVERSION NO. 3 IS ON LITTLE STONEY
CREEK.

Printing And Storage Formats. Figure VI-4 is included to help explain source name format, and is divided into four areas.

- The "Write On Worksheet" column shows how different source name standardization should be written on the worksheet.
- The "Coded As" column shows how the source name will be coded and stored in the computer.
- The "Printed On Decree Abstract" column depicts the source name format for the decrees and certificates.
- The "Printed On Indexes" column displays the source name format as printed on indexes and other reports.

4. Streams.

a. Named Streams. The stream name confirmed on the USGS or WRS map, or as an acceptable colloquial name will be the standard source name. Make corrections or standardizations on the worksheet. If a WRS or colloquial name becomes the standardized name, write the name on the USGS topographic map.

When a claimed source name is not an acceptable source name, it can be retained on the decree abstract in a source name remark. If the claimed source name is not supported by the data sources but might be meaningful to the claimant, it should be retained. Use discretion when adding remarks.

Example: S30 SN01ALSO KNOWN AS DOG TAIL SLOUGH

FIGURE VI-4

SOURCE NAME FORMAT

<u>Write on Worksheet</u>	<u>CODED AS:</u>			<u>Printed on</u>	
	<u>Source Name</u>	<u>UT Code</u>	<u>ST Remark</u>	<u>Review Abstract and Decree Abstract</u>	<u>Indexes</u>
Standardized Name	Standardized Name	N	None	Standardized Name	Standardized Name
UT of _ _ _	Standardized Name	Y	None	Unnamed Tributary of _ _ _	UT (UT_Rock_Creek)
Spring, Trib of _ _ _	Standardized Name	Y	SP	Spring, Trib of _ _ _	SP (SP_Rock_Creek)
Standardized Spring Name	Standardized Spring Name	N	None	Standardized Spring Name	Standardized Spring Name
Waste & Seepage Trib of _ _ _	Standardized Name	Y	WS	Waste & Seepage, Trib of _ _ _	WS (WS_Rock_Creek)
Subirrigation Trib of _ _ _	Standardized Name	Y	SI	Subirrigation, Trib of _ _ _	SI (SI_Rock_Creek)
Manmade Pit Trib of _ _ _	Standardized Name	Y	MP	Manmade Pit, Trib of _ _ _	MP (MP_Rock_Creek)
Natural Pit Trib of _ _ _	Standardized Name	Y	NP	Natural Pit, Trib of _ _ _	NP (NP_Rock_Creek)
UT of Interior Drainage	Interior Drainage	Y	None	Unnamed Tributary of Interior Drainage	UT Interior Drainage
Spring Trib of Interior Drainage	Interior Drainage	Y	None	Spring, Trib of Interior Drainage	SP Interior Drainage
Natural Pit Trib of Interior Drainage	Interior Drainage	Y	None	Natural Pit, Trib of Interior Drainage	NP Interior Drainage
Manmade Pit Trib of Interior Drainage	Interior Drainage	Y	None	Manmade Pit, Trib of Interior Drainage	MP Interior Drainage

When a name is used more than once in a basin to identify different streams (i.e., Deer Creek, Rock Creek, Beaver Creek) adding a source name (SN) remark to the department's examination report is suggested. Use the name of the first stream to which the source is tributary in this remark.

Example: S75 SN01THE SOURCE IS A TRIBUTARY OF PRICKLEY PEAR CREEK.

b. Unnamed Streams. If the source is unnamed, the first standard source name to which the claimed source is a tributary will be used. Using the USGS topographic map, follow the claimed source downstream until it enters a named source. The source name will be written on the worksheet as: UT _____ (using the first standardized named source to which the claimed source is a tributary), i.e., UT Missouri River.

5. Lakes And Reservoirs. A lake is a considerable inland body of standing water which occurs naturally. Naturally occurring lakes which have had their surface artificially raised, altered, or volume increased due to human activities will be treated as a reservoir only on those claims using the storage. A reservoir is an artificial (man-made) lake where water is collected and kept in quantity for use.

The source name for a claim which includes a reservoir is the name of the stream from which water is diverted or impounded. For purposes of source name standardization, the following guidelines will apply.

- The source will be the inflowing stream name. If no inflowing stream, use the outflowing stream name. If there is no named outflowing stream, the source will be UT of the first named stream to which the source is a tributary (or UT).
- A claimed lake or reservoir name which meets the acceptable standardization criteria will be retained by writing the name in the reservoir/lake name area on the worksheet. When there is no reservoir record, an acceptable lake or reservoir name will be retained using the reservoir code sheet. See "Examination Materials and Procedures: Code Sheet Instructions" for how to complete reservoir code sheets.

The source and the reservoir/lake name records in the computer and on the decree abstract are limited to 33 spaces. Abbreviate the standardized name as necessary.

By following these guidelines both the stream and lake/reservoir name will be in the decree. The water right will be listed twice in the source name index; once under the stream name and once under the lake or reservoir name.

When a claimed reservoir name is not an acceptable standardized reservoir name and has not been added to the reservoir record, it may be retained using a reservoir name (RN) remark. The names will appear in the decree as part of the reservoir record.

Examples: R25 RN01RESERVOIR NAME: OLD MILLER POND
RN01RESERVOIR NAME: UPPER RANCH RSVR. NO. 2

When a natural lake is claimed that is unnamed or has a name that is not an acceptable standardized name (and, therefore, has not been added to a reservoir record), it may be noted using a source name (SN) remark.

Examples: S30 SN01ALSO KNOWN AS JOHNSON LAKE
S35 SN01UNNAMED NATURAL LAKE
S41 SN01POTHOLE LAKE
S42 SN01SOURCE FEEDS A NATURAL LAKE/POND

6. Springs. Many variations exist in how springs have been named and stored in the computer data base. This section discusses how they should be reviewed so that consistent source name standardization is maintained.

Developed Spring. A spring will be considered "developed" and the appropriation will be classified as groundwater if documentation clearly indicates a development of the spring that appropriates groundwater. Appropriate documentation to consider a spring "developed" would include:

- A GW3 or GW4 filed in accordance with the 1961 Groundwater Code, unless the GW form clearly indicates the spring has not been developed. For example, if the GW states "natural flowing springs", "natural flow", "spring surfaces and runs off", "natural springs", it should be considered undeveloped and classified as surface water.

A GW1 or GW2 which identifies a spring, and meets the filing criteria, may be used as a GW3 or GW4.

- Claim form or other documentation in the file indicates the flow of the spring has been increased above its natural flow by some development at its point of extrusion from the ground.
- Claim form or other documentation in the file indicates some form of development at the spring, such as a "developed spring", "spring box", "pipeline", "pump" or "rock cribbing, **and** claimant contact confirms the development has increased the discharge of the spring above its natural flow.
- Claimant is contacted regarding spring development or for other items, and confirms development has increased the discharge of the spring above its natural flow.

Undeveloped Spring. A spring will be presumed to be "undeveloped" and the appropriation will be classified as surface water if the above "developed" spring criteria are not met.

a. Identifying The Source. When the claimed source is a spring, the identification of the source as a spring or a stream will be determined as follows:

- When a spring is "developed" based on the above criteria, the source will be a spring. The source type will be groundwater (G) and the POD legal land description should encompass just the spring.

In some cases, the source may be composed of several springs or a cluster of springs within a small area. Unless the springs have been specifically identified on the map, only one POD description is needed. To explain this situation, a source name remark may be added to the department's examination report.

Example: S20 SN01SOURCE IS COMPOSED OF SEVERAL/FOUR
DEVELOPED/UNDEVELOPED SPRINGS WITHIN THE POINT OF
DIVERSION LEGAL LAND DESCRIPTION.

Based on the physical location of the developed spring, the claim may include a commingling of surface water. If the commingled surface water has not been claimed, the following source name remark may be added to the department's examination report.

Example: S80 SN01THIS WATER RIGHT ALSO INCLUDES SURFACE WATER FROM
UNNAMED TRIBUTARY OF MAD DOG CREEK.

Depending on the location of the POU, there may be a secondary diversion on a water course used as a natural carrier. See "Claim Examination: Point Of Diversion (POD)" for natural carrier remarks.

- When a spring is "undeveloped" based on the above criteria, and the POD on the claim form and map are a single point source at the spring, the source will be spring. The source type will be surface water (S) and the POD legal land description should encompass just the spring. The specific means of diversion may need clarification. If the means of diversion was claimed as "developed spring", this will need to be changed to a code other than "DS".

The source name remarks (S20, S80) discussed above may also be needed.

- If a spring is "undeveloped" based on the above criteria, and the POD on the claim form and map identify an area larger than just the spring or POD downstream from the

spring, the source will be the stream to which the spring is a tributary. The source type will be surface water (S) and the POD legal land description should encompass where the water is diverted for use. The specific means of diversion may need clarification.

The following source name remark may be added to the department's examination report if a spring has been developed in a manner that adds to the watercourse from which the water is actually diverted. However, this may be a separate right and an implied claim may be needed.

Example: S85 SN01THIS WATER RIGHT ALSO INCLUDES GROUNDWATER FROM A DEVELOPED SPRING IN THE NWNWNW SEC 18 TWP 10N RGE 13W POWELL COUNTY.

b. Named Springs. A claimed spring name which meets the acceptable standardization criteria will be retained as the standard source name. Make corrections to the claimed source name directly on the worksheet. The word "Spring" should always follow a standard name, e.g., Two Dot Spring.

A decision was made during the claims collection period that certain named springs would not be stored in the computer data base, such as,

- Spring #1, #2, etc.
- spring name is the same as the claimant's name;
- a number followed by a name (#3 Arthur);
- a number that is spelled out (twenty-seven).

These springs will not be named on the worksheet. These claimed spring names must be checked to see if they meet acceptable standardization criteria. If the name does not meet the criteria, treat the source as an unnamed spring.

In situations where a claimed spring name is not an acceptable standardized name, the claimed name may be retained in a source name (SN) remark added to the decree abstract. Use discretion when adding such remarks.

Example: S30 SN01ALSO KNOWN AS KELLEY PLACE SPRING

c. Unnamed Springs. A claimed spring without a name or with a claimed name that does not meet the acceptable standardization criteria is considered an unnamed spring. Identify the first down gradient named source, even if far away from the spring, for establishing the standard source name. This puts the spring in a subbasin, enhancing the usefulness of the data base.

All unnamed springs will be standardized on the worksheet to "Spring, Trib of _____" (using the first down gradient named source). If the spring cannot be related to a named source, the standard source name will be "Spring".

7. Wells. When "well" has been claimed, the source name on the worksheet will be "Well." The standard source name for these sources will be "Well," unless a claimed well name meets acceptable standardization criteria. A claimed source name being standardized to "Well" may be retained in a source name (SN01) remark. Use discretion when adding remarks.

Recording Well Data. Instructions for entering well data, i.e., depth, static water level, yield rate, and casing diameter, are given in "Point Of Diversion: Specific Point Of Diversion Guidelines".

8. Additional Source Types. When none of the five choices (spring, well, stream, lake, or reservoir) on the claim form fit a particular situation, certain other source names are acceptable.

These additional source names are presented in Figure VI-3. The left column lists various source names or types which may appear on the claim form or documentation. The right column lists the corresponding standardized source name.

Names in the left column can be retained as source name remarks in the department's examination report if helpful in explaining the situation. Source name remarks added during clarification should be deleted if they do not appear useful.

Questions regarding these source names and types should be brought to the attention of the water resource specialist and regional manager, or program manager. Claimed source names and types not identified in Figure VI-3 will normally involve issue remarks.

a. Waste And Seepage. Waste water is water lost through the design of a system, the operation of a system, and/or the water distribution facility which has not re-entered a natural stream channel. Seepage is the movement of water through a porous soil; its origin could be from another's waste or occurring naturally.

The source name for claims involving waste and/or seepage will be standardized as "Waste and Seepage Trib of _____," using the first named source into which the water would flow. When considering "Waste and Seepage Trib of _____" as the standardized source name, a definite diversion of the water must be involved. To further explain how and where waste and seepage originates, a source name remark may be added to the department's examination report.

Examples: S90 SN01THE SOURCE IS WATER COLLECTED IN A DRAIN DITCH.

S95 SN01THE SOURCE IS WATER COLLECTED IN THE MONFORTON DRAIN DITCHES.

Drain ditches may exist where the water is not being used, but is being drained off the claimed place of use. In this situation the right may be subirrigation, not waste and seepage.

For claims to waste or seepage being diverted from a natural stream channel, the source name will be that of the stream.

b. Subirrigation. The two types of subirrigation are as follows.

- Natural subirrigation is land having a water table within reach of the crop root system. There is normally no specific point of diversion: POU should equal POD.
- Controlled subirrigation systems, such as drain ditches equipped with check dams to control the level of the water table, would require a specific POD.

The source name for claims involving subirrigation will be standardized as "Subirrigation Trib of _____," using the first named source the subirrigation water would flow into.

c. Natural Overflow Or Flood. Generally, natural overflow or natural flooding as a claimed source name was changed during the clarification process to the stream name. Standardize the source name for claims involving natural overflow or natural flooding to the stream from which the natural overflow or flooding occurs.

d. Interior Drainages (Closed Basins). A closed basin or interior drainage exists when the surface water of an area does not have an identifiable outlet. An interior drainage, therefore, may not be known to be tributary to any other drainage or source.

The following guidelines, listed in order of preference, apply for standardizing the source name of an interior drainage.

- A named stream or lake, or an unnamed tributary to a named stream or lake, within an interior drainage which meets the acceptable standardization criteria will be the source name, e.g., "SWAMP COULEE." Add a source name remark to the department's examination report identifying the interior drainage.

Example: S100 SN01SOURCE LOCATED WITHIN AN INTERIOR DRAINAGE.

- For unnamed streams within an interior drainage, determine the first named source down gradient from the interior drainage. Use this source name in conjunction with the source type. This puts the source in a subbasin which enhances the usefulness of the data base. Add a source name remark to the department's examination report identifying the interior drainage.

Examples: Unnamed Tributary of (source name)
Natural Pit Trib of (source name)
Manmade Pit Trib of (source name)

Example: S100 SN01SOURCE LOCATED WITHIN AN INTERIOR DRAINAGE.

- If there is no named stream within the interior drainage and a down gradient source name cannot be determined, the standardized source name will be "INTERIOR DRAINAGE" used in conjunction with the source type.

Examples: Natural Pit, Trib of Interior Drainage
Manmade Pit, Trib of Interior Drainage
UT, Trib of Interior Drainage
Spring, Trib of Interior Drainage

e. Others. All claimed source names that cannot be standardized using the procedures in the preceding sections will be brought to the attention of the program manager.

9. Source Name Issues.

a. Multiple Source Types Claimed. Claims may be encountered listing multiple source types, such as Waste/Subirrigation/Slough. Determining the accurate source name requires careful analysis. Contacting the claimant is advised.

The following guidelines apply when multiple source types have been claimed.

- If more than one source is involved, send the claim to the water court requesting authorization for an implied claim. The claim file should clearly document why more than one water right exists.
- If only one source is involved and the source type is clearly indicated in the claim file, change the source type accordingly. When a single source type is not clearly indicated in the claim file, contact the claimant.
- If the multiple source type problem is not resolved, add a source name remark to the department's examination report.

Example: S105 SN51THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

b. PODs On Multiple Sources. Some claims show points of diversion on two or more sources. Two or more water rights may be involved, the POD legals may be incorrect, or there may be only one water right involving two sources. If there is any uncertainty whether more than one water right is involved, contact the claimant.

The following guidelines apply when PODs on multiple sources have been claimed.

- For claims involving a named source and an unnamed tributary to that same source, and there is no apparent adverse effect to other water users, the claim will be reviewed as one water right. Place a "Y" on the worksheet in the diversion record for the POD on the unnamed tributary to identify it in indexes. Add a source name remark to identify the unnamed tributary on the decree abstract.

Example: S10 SN01POINT OF DIVERSION NO. 4 IS ON AN UNNAMED TRIBUTARY OF STONEY CREEK.

- For claims involving two or more PODs on different named sources, claimant contact is advised.
 - i) The POD legals may be incorrect.
 - ii) If more than one source is involved, send the claim to the water court requesting authorization for an implied claim.
 - iii) If the reasons for PODs on different sources cannot be resolved, add a source name remark to the department's examination report.

Example: S110 SN51THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

c. POD Not On Claimed Source. When the POD is located on a water course different from the source claimed, either an exchange of water from different sources or a natural carrier situation is occurring.

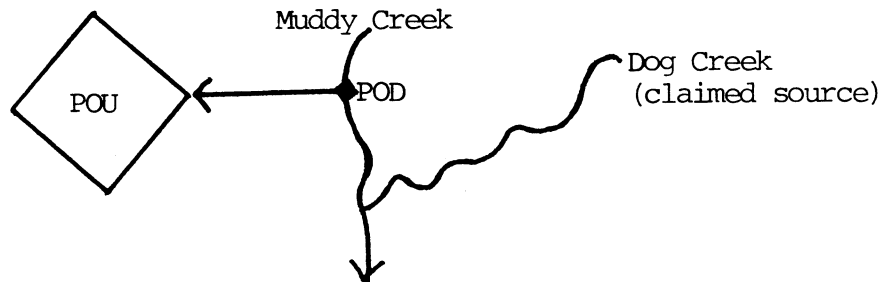
Exchange Of Water From Different Sources. An exchange of water occurs when water from the diverted source is substituted for the water of the appropriated source. Contacting the claimant to understand the specifics is advised. Standardize the source name to the stream from which water was originally appropriated. Add a source name remark to the decree abstract.

Examples: S55 SN01WATER FROM NO MAN LAKE IS EXCHANGED FOR WATER DIVERTED FROM THE SOUTH FORK OF INDIAN CREEK.

S60 SN01WATER DECREED FROM DOG CREEK, CASE NO. 0000, PONDERA COUNTY, IS EXCHANGED FOR WATER DIVERTED FROM MUDDY CREEK.

In addition, add a source name remark to the department's examination report noting the exchange as an issue. It is suggested this type of claim be reviewed by the water resources specialist.

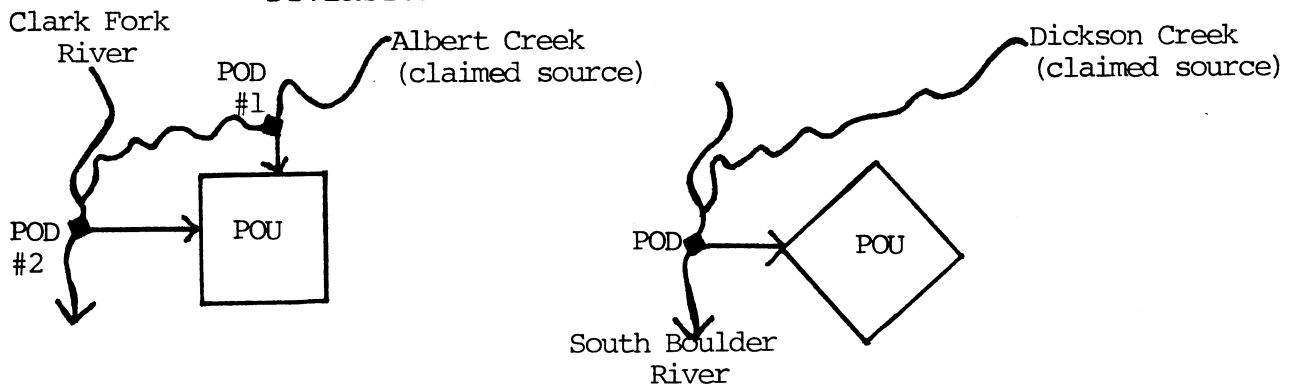
Example: S115 SN51WATER IS NOT DIVERTED FROM THE CLAIMED SOURCE. WATER FROM THE CLAIMED SOURCE IS EXCHANGED FOR WATER DIVERTED FROM A DIFFERENT SOURCE. DUE TO THE EXCHANGE OF WATER, THE SOURCE AND PRIORITY DATE CANNOT BE CONFIRMED.



Natural Carrier. If the claimed source is an upstream tributary to the water course on which the POD is located, add a source name remark to the department's examination report to help explain and clarify the particular situation.

Examples: S65 SN01CLARK FORK RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM ALBERT CREEK TO POINT OF DIVERSION NO. 2.

S70 SN01SOUTH BOULDER RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM DICKSON CREEK TO THE POINT OF DIVERSION.



When the second example is encountered, check claim file, WRS, and if necessary, the claimant, to determine whether water was historically diverted from the claimed source. If a historical diversion from the claimed source cannot be determined or never existed, add a source name issue remark, in addition to the remark above, to the department's examination report.

Examples: S120 SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED. A HISTORICAL APPROPRIATION FROM THE CLAIMED SOURCE CANNOT BE CONFIRMED.

S125 SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED.
IT APPEARS THAT NO HISTORICAL APPROPRIATION HAS
OCCURRED FROM THE CLAIMED SOURCE.

d. Claimed Source Questionable. In certain situations, a claim for groundwater from a well in a flood plain should be questioned. For example, a well adjacent to a stream with a depth of 15 feet and a casing diameter of 48 inches may actually be diverting surface water from the stream.

If uncertain whether a claim fits into this category, consult with the water resources specialist, regional manager, and/or program manager.

When it is appears the source may be incorrect, contact the claimant to discuss the issue. If the issue is not resolved, add a source name remark to the department's examination report.

Example: S126 SN51THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON
AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM
DOG CREEK.

If the source is amended to a surface source where the POD is a sump or pit next to the source, add a point of diversion (PD01) remark to explain the POD is adjacent to the source but is diverting water from the source.

Example: **** PD01WATER FROM DOG CREEK IS DIVERTED BY MEANS OF A
PIT LOCATED ADJACENT TO THE SOURCE.

E. ADDITIONAL LEGAL LAND DESCRIPTIONS

The normal reference to legal land descriptions is by township, range, section, and quarter sections. Other types of legal land descriptions, e.g., government lots, subdivisions, mining claims, can be used to help define a property location. Exhibits VI-2 and VI-3 are discussions of land surveys, legal land descriptions, and the documents involved.

This section describes how other types of legal land descriptions are identified. These descriptions may be added to the decree abstract during the examination process as a clarification of a claimed POD or POU to the nearest reasonable and concise legal land description.

1. Subdivisions. A claimed subdivision or one identified during examination will be retained to appear on the decree abstract. This is especially important in the urban areas of the state.

In standardizing subdivision names, use the subdivision name list from the Department of Revenue. Each regional office should have this list for their area.

When adding a subdivision, record the lot and block numbers directly on the worksheet. Add a subdivision name to the decree abstract with a subdivision name (SB) remark, using a remark code sheet, not a subdivision record code sheet. The subdivision name remark should begin with the two letter county code and a hyphen before the subdivision name.

Examples: S5 SB01JE-GRUBER ESTATES, FIRST ADDITION
 SB01HI-CERTIFICATE OF SURVEY NO. 22134
 (if on Department of Revenue list)

Following are some guidelines for adding or changing subdivision descriptions.

- A lot number with no identified subdivision name may refer to a government lot. Check the GLO plat of the township to confirm.
- Use quarter section breakdowns with subdivision lot and block descriptions. Refine the quarter section legals the same as with land descriptions not involving subdivisions.
- If more than one lot or block number occurs within a specified quarter section breakdown, repeat the breakdown as a separate parcel listing for each lot or block number.
- It may not be possible to identify the acreage or legals to match each lot and block referred to in a POD or POU. If not, lot and block numbers may be retained in a point

of diversion (PD) or place of use (PL) remark. If the remark is to refer to both POD and POU, a clarification of land description (CL) remark may be used. A subdivision name (SB) remark is also necessary. (Example: Claimed POU equals 10 acres of irrigation in Lots 5, 6, and 7 of Gruber Estates, First Addition, NENENE, Sec. 1. Number of acres within each lot cannot be determined. Add a place of use (PL) and subdivision name (SB) remark.)

Examples: P6 PD01THE POINT OF DIVERSION INCLUDES LOTS 8 AND 9 OF GRUBER ESTATES, FIRST ADDITION.

P7 PD01THE POINT OF DIVERSION IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

P175 PL01THE PLACE OF USE INCLUDES LOTS 5, 6, AND 7 OF GRUBER ESTATES, FIRST ADDITION.

P180 PL01THE PLACE OF USE IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

C40 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES LOTS 5, 6 AND 7 OF GRUBER ESTATES, FIRST ADDITION.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

S5 SB01JE-GRUBER ESTATES, FIRST ADDITION

- If a subdivision and government lot are both involved, retain the subdivision lot and block numbers on the worksheet, (a SB remark is necessary), and add a PD, PL, or CL remark to the decree abstract to retain the government lot.

Examples: P4 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN GOVT LOT 8 IN SEC 13 TWP 16N RGE 15E JUDITH BASIN COUNTY.

P165 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN GOVT LOTS 5, 6, AND 7 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY.

C10 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN GOVT LOTS 3 AND 4 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY.

S5 SB01JB-SAPPHIRE MOUNTAIN ESTATES

2. Government Lots. Government lots are used to describe portions of sections where normal quartering methods into aliquot parts is not feasible. They are typically found in sections along the north and west side of a township, odd shaped sections,

land adjacent to lakes and rivers, on Indian reservations, and where surveys joined.

When a claim lists a government lot or a land description in a potential government lot situation, check the General Land Office (GLO) plat books or GLO microfiche to confirm. Add a copy of the plat map to the claim file.

Retain a government lot identified through examination, even if not claimed. Write government lot numbers directly on the examination worksheet. The computer will print "GOVT" next to the lot number when a lot number is part of a legal land description and is not accompanied by a subdivision (SB) remark.

Use the following guidelines when a government lot is associated with a point of diversion or place of use legal land description.

- If section is close to being typical size (640 acres), then a $\frac{1}{4}\frac{1}{4}$ or $\frac{1}{4}$ description should be added.

There should be at least one $\frac{1}{4}$ or $\frac{1}{2}$ section description to identify the quadrant in which the lot is located.

These descriptions, although not technically correct, are a useful data management tool.

To break an odd shaped section into quadrants, align a standard section grid with the southeast corner. If the southeast corner is part of a lot boundary, align the grid with a standard corner which is not part of a lot boundary. The quadrant containing the standard corner (usually the southeast) will be normal size with the error thrown into remaining quadrants (usually the north and west).

- If more than one lot exists within a specific claimed legal (quadrant), repeat the quadrant for each lot.
- If a government lot and subdivision are both involved, see procedures in "Subdivisions" above.

3. Certificate of Surveys. A claimed certificate of survey (COS) or one identified during examination will be retained to appear on the decree abstract. If the COS is listed on the Department of Revenue subdivision list, retain it in a SB remark. See procedures in "Subdivisions" above. If the COS is not on the Department of Revenue list, retain it in a CL, PD or PL remark.

Examples: C15 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

P3 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

P171 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

4. Homestead Entry Surveys, Desert Land Claims and Mining Claims. For a description and discussion of each of these documents, see Exhibit VI-2 in the appendix. These documents can help to further define the location of a claimed water right.

Whenever one of these documents is identified on the claim form, in the claim file, or through claim examination, the type of document and document number should be retained on the decree abstract using a point of diversion (PD) or place of use (PL) remark. A clarification (CL) remark may be used if the document refers to both the POD and POU.

Examples: P5 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN VICTORY LODE, MINERAL SURVEY NO. 0000.

P6 PD01THE POINT OF DIVERSION INCLUDES MINERAL SURVEY NO. 8776.

P7 PD01THE POINT OF DIVERSION IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8789.

P170 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN LUCKY STRIKE PLACER, MINERAL SURVEY NO. 9999.

P175 PL01THE PLACE OF USE INCLUDES LOTS 5, 6, AND 7 OF HOMESTEAD ENTRY SURVEY NO. 747.

P180 PL01THE PLACE OF USE IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8765.

C25 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN VICTORY LODE, MINERAL SURVEY NO. 0000.

C40 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES MINERAL SURVEY NO. 9383.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8736.

Even when a homestead entry survey, mineral survey, etc. is retained, a legal land description should be listed on the worksheet for the POD and POU.

If not submitted with or identified on the claim form, indicate in the comments area on the worksheet where the document was found.

5. Unsurveyed Areas. If examining a claim in an area indicated as unsurveyed on a USGS topographic map, the rectangular (TRS) legal land description should be interpolated and listed on the examination worksheet. These descriptions, although not technically correct, are a useful management tool. Whenever a legal land description is interpolated in an unsurveyed area, add a remark to the department's examination report.

Examples: C60 CL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION HAS BEEN ESTIMATED.

P15 PD01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE POINT OF DIVERSION HAS BEEN ESTIMATED.

P210 PL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE PLACE OF USE HAS BEEN ESTIMATED.

The survey lines of some unsurveyed areas have been interpolated on US Forest Service and BLM maps. Use these references when available.

6. Claims On Indian Reservation. For claims where the point of diversion or part of the place of use is within an Indian reservation, add the following remark to the department's examination report.

Example: C64 CL01THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE FORT PECK INDIAN RESERVATION.

F. POINT OF DIVERSION (POD)

The point of diversion is the location of the initial diversion, impoundment, or withdrawal of water from the source of supply. By standardizing PODs, the quality of the computer data is improved making POD indexes or listings more accurate and reliable.

All PODs will be described on the decree abstract using an aliquot legal land description and any other legal land description that will precisely define its location. Refer to "Land Surveys and Descriptions," Exhibit VI-3, for a general discussion of legal land descriptions.

1. Identifying The Claimed POD. Using the information in the claim file, check the POD identified on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed POD is unclear to the extent that what was intended cannot be determined, contact the claimant. An amendment identifying the claimed POD may be needed.

Secondary Points Of Diversion. Some claimants listed secondary points of diversion along with or instead of the initial point of diversion for their system. A secondary diversion is one that moves or controls water after the initial diversion and is within the system either enroute to the POU or on the POU itself. It does not take new water from the claimed source. Examples of secondary diversions are:

- lateral ditches off of a main ditch
- dams for offstream reservoirs
- diversions from a stream course used as a natural conveyance
- spreader dikes below the initial diversion dike

Multiple diversions in series along a stream channel are not secondary PODs since each is used to initially divert water from the claimed source.

Secondary PODs should be deleted from the examination worksheet. Place an asterisk in the brackets to the left of the POD heading to denote the change. Claimant contact is only necessary if the initial POD is not clear from the claim file. In such situations, the initial POD can be added to the claim on instruction from the claimant; an amendment is not necessary.

Secondary diversions from a stream course used as a natural carrier may be denoted in a remark. See "Examining POD: Unique POD Features" below.

2. Examining POD. Examine each claimed POD to confirm its existence and check each legal land description for accuracy and consistency. A single POD may have had several different legal land descriptions applied to it by claimants.

Compare the POD indicated on the claim and worksheet with various data sources. These data sources include

- claim file
- aerial photographs or orthophotoquads
- topographic maps
- Water Resources Survey
- ditch name indexes

Locate the claimed POD on the aerial photograph, and use the Water Resources Survey data or USGS topographic maps to confirm its location. If there is a discrepancy between an aerial photograph and the WRS data, the aerial photograph takes preference. If the aerial photograph, due to timber cover or the small size of the diversion means, does not show evidence of the claimed POD, the WRS data will be given preference.

If the POD cannot be found on the aerial photograph, WRS, or topographic map, the review of the claimed POD becomes subjective. Look carefully at the conveyance facility and POU in respect to the point of diversion. Also consider the claimed means of diversion. Determine if it is possible to supply the POU using the claimed POD, means of diversion, and conveyance facility. If necessary, consult the POD index to identify other claims with PODs in that general area. Pull these claims for a better understanding of the situation.

The claimed POD may be changed if supported by the claimant's map, data sources, or other claims using the same POD. This change may involve either refining a claimed POD legal or identifying an entirely different legal.

Refining POD Legals. Once identified, claimed PODs should be refined to the nearest reasonable and concise legal land description.

The most precise legal land description is normally a $\frac{1}{4}$ section. The data base allows for a fourth $\frac{1}{4}$ section breakdown to a legal land description. This shall only be used when the claimant's map or our data source is extremely precise, or the claim indicates a fourth $\frac{1}{4}$ description. PODs in a highly subdivided area or a townsite could warrant a fourth $\frac{1}{4}$ description.

POD legals should be further refined using legal land description devices such as lot-block-subdivision, government lot, Homestead Entry Survey number, etc., whenever possible.

Shared PODs. The claimed legal land description of PODs shared by several claims and/or claimants may be revised to make them consistent. The claimed POD may be changed if supported by data sources or claimant's map. This change may involve either refining a claimed POD legal or identifying an entirely different legal.

To help achieve this goal, it is suggested that claims be reviewed as a group, by source and by ownership. Familiarity with the area will increase. Patterns will become more apparent. For example, if the legals given by several users of a shared diversion differ from the data sources, contact the claimant(s). It may be appropriate to conduct a field investigation.

For named ditches, POD consistency can be achieved by developing a ditch name index. See "Conveyance Facilities Index" below.

a. Changing POD. The claimed POD will not be changed during the examination unless

- amended by the claimant;
- clarified by the department to the nearest reasonable and concise legal land description;
- revised by the department to make a common POD used for more than one claim consistent;
- clarified by the department on confirmation by the claimant.

Changes may be made directly to the worksheet or by adding a POD code sheet. If the legal land descriptions are changed so that they will be different on the decree abstract from the claim form, amendment, or addendum, place an asterisk on the worksheet in the brackets to the left of point of diversion to flag the change. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed point of diversion is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. This contact can have several outcomes.

- Information discussed confirms the claimed POD. Document the information supporting the claimed POD.
- A POD different from that in the claim file is identified. The claimed POD may be changed on confirmation by the claimant. Thoroughly document the discussions with the claimant and the data used to substantiate the new POD. As an alternative, an amendment can be submitted to change the claimed POD.
- A new POD in addition to those claimed is identified. This information can only be added by amendment.
- If the issue is unresolved, add a POD issue remark containing the correct POD to the department's examination report. (If the actual POD is too lengthy for a remark,

record the actual POD in the general comments area of the worksheet, on an interview report form, or in a memorandum. Do not use a POD code sheet.)

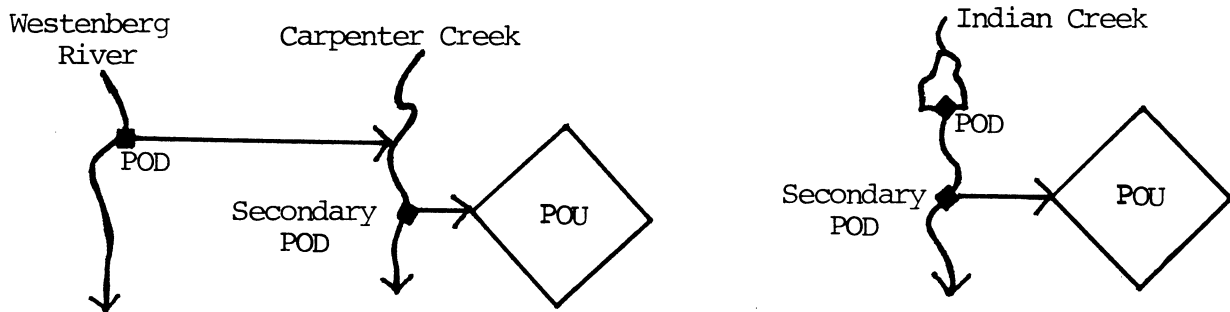
c. Unique POD Features. Unique POD features should be called to the attention of the water court by adding a remark to the examination report.

Example: P20 PD01DRAIN DITCH IS FED ALONG ITS FULL LENGTH BY UNDERGROUND SEEPS.

Natural Carrier. Secondary diversions located on a water course used as a natural carrier should be remarked as unique features in the department's examination report if helpful in explaining and clarifying a particular situation.

Examples: C120 CV01WATER DIVERTED FROM WESTENBERG RIVER IS CONVEYED TO CARPENTER CREEK WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWSWSE SEC 23 TWP 99S RGE 99E DAKOTA COUNTY.

C125 CV01WATER RELEASED FROM CLIFF RESERVOIR USES INDIAN CREEK AS A NATURAL CARRIER TO CONVEY WATER TO A SECONDARY POINT OF DIVERSION IN THE NWNWNW SEC 15 TWP 01N RGE 15E DAKOTA COUNTY.



d. Conveyance Facilities Index. This section describes the preparation of an index that allows convenient comparison of claims using the same named ditch as a conveyance facility. An example of this index is shown as Exhibit VI-4.

The index would not be available until after examination data has been input into the computer. A complete index will be provided as part of the review abstract process and subsequent reviews. The index is useful to department reviewers when checking for clerical and other errors, and to claimants in their review of the decree.

The development of this index is left to each regional office staff's discretion. On some streams, most claims are diverted through named ditches, and the index would be beneficial to develop. There are, however, areas where few (if any) ditches are named or few claims use common carrier ditches. For these reasons, it may not be necessary to compile a ditch name index for every stream in a basin; or in some cases, for any streams in a basin.

The first step in the preparation of this index is the standardization of ditch names. As the WRS includes most ditches, it will prove to be a valuable source for this information. Different names are sometimes indicated on the USGS topographic maps or are given by the claimants either on the claim form or in the documentation. The suggested order of preference for these sources is:

- WRS ditch names
- USGS ditch names
- Colloquial names

To enter a ditch or canal name into the computer record of a claim, use a ditch name (CX) remark. The text of the remark is the ditch name.

Examples: C160 CX01REID DITCH
C161 CX01FARMERS CANAL

Computer will print:

"DITCH NAME: REID DITCH"
"DITCH NAME: FARMERS CANAL"

When a claim uses two or more named ditches, additional CX remarks can be added. The ditch names can be tied to the respective PODs using the following ditch name remark format. The number in the text of the remark must correspond to the diversion record number of the respective POD for that named ditch, i.e., for DV03 remark text must be 03-ADAM-SMITH DITCH. This allows the computer to print the ditch name with the appropriate POD legals in the ditch name index.

Examples: C165 CX0101-FRAZIER DITCH
CX0303-ADAM-SMITH DITCH

Computer will print:

"DITCH NAME FOR DIVERSION NO. 01 IS
FRAZIER DITCH"

"DITCH NAME FOR DIVERSION NO. 03 IS
ADAM-SMITH DITCH"

C166 CX0101-FARMERS CANAL
CX0302-STONE CANAL

Computer will print:

"DITCH NAME FOR DIVERSION NO. 01 IS
FARMERS CANAL"

"DITCH NAME FOR DIVERSION NO. 02 IS:
STONE CANAL"

For claims to stored water released and diverted downstream into a named ditch or canal, add a ditch name remark.

Examples: C160 CX01WARREN DITCH (STORAGE)
C161 CX01STONE CANAL (STORAGE)

Computer will print:

"DITCH NAME: WARREN DITCH (STORAGE)"
"DITCH NAME: STONE CANAL (STORAGE)"

3. Specific Point Of Diversion Guidelines. The following are guidelines to various situations encountered in examining and consistently defining POD locations.

a. Point Specific Diversions. Point specific diversions include dams, headgates, stationary pumps, springs, and wells. All specific PODs associated with a water right should have their locations listed separately. This applies even if there is more than one POD existing in a 10 acre (~~444~~) legal land description. The claimant's map is the primary reference.

Recording Well Data. For general DNRC use, well data that is encountered in the claim file, GW files, or other data sources will be stored in the computer data base.

When a well has been claimed, a line will appear in the POD area on the worksheet that shows existing well data in the computer record of a claim and allows for input of well data identified during examination. The format of the line on the examination worksheet is:

depth 9999 static wtr lvl 9999 yield rate 99999 csing diam 99.99

If the worksheet does not have a line for entering well data, the well data code sheet (same as reservoir code sheet) may be used. If the code sheet is used, the entire field must be completed including the legal land descriptions of the well. Code the "Action" byte as "C" for change.

The yield rate is the rate at which the well was tested and is normally found on the well log. The yield rate should be greater than the pumping rate (claimed flow rate). If the yield rate cannot be identified from the claim file or other data sources, this area should be left blank.

If well data is available that does not appear on the worksheet, write it in the appropriate space and place a check mark in the margin to alert the coders. If data appears on the line, it should be checked against the information in the claim file, and other information obtained during the examination.

Two Or More Rights On The Same Well Or Pump. Two or more different water rights (different priority dates) may be encountered

on a single well or pump location. For example, a well was originally used for stock and used later for domestic. In this type of situation, an associated remark may be added to the department's examination report.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME POINT OF DIVERSION/RESERVOIR/POTHOLE LAKE. W000000-00, E000000-00, C000000-00, P000000-00.

b. Reservoirs. The POD of an offstream reservoir should identify where the water is diverted from the source for conveyance to the reservoir. The POD of an onstream reservoir will be the location of where the impoundment structure crosses the source.

If control of the reservoir is not a part of the right (onstream/offstream code is "R") the POD for the right should be where the water is diverted from the reservoir to the POU.

Additional Diversions. Systems involving reservoirs sometimes have other diversions from the source that do not involve the reservoir. These additional PODs should also be identified on the decree abstract.

c. Transitory Diversions. Some systems divert water from several non-specific places along a source with a movable diversion means. In this situation the POD should identify the length (area) along which the diversion occurs. Add a point of diversion remark to the department's examination report.

Examples: P25 PD01POINT OF DIVERSION IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

P30 PD01POINT OF DIVERSION NO. 2 IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

P35 PD01PUMP IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

d. Water Spreading. For water spreading systems involving dikes, the point of diversion is the location where the structure crosses the source.

If it is necessary to use additional legal land descriptions to describe the structure, do not use additional point of diversion records. Add a point of diversion remark to the department's examination report.

Examples: P8 PD01DIKE EXTENDS INTO THE NESW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

P9 PD01DIKE EXTENDS INTO THE NWNWNE, NENENW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

e. Natural Subirrigation. When the source is natural subirrigation, the legal land description for the POD will be the same as for the place of use.

f. Controlled Subirrigation. Where subirrigation is man controlled, such as a check dam on a drain ditch, the POD will be the location of the check dam.

g. Natural Overflow. When the source is natural overflow or flooding, the legal land description for the POD will normally be the length of the stream through the place of use.

h. Waste And Seepage. This source name is used to cover a variety of situations. The POD for waste and seepage rights will be defined as the location where the claimant initially collects or manipulates waste and seepage and directs it to the place of use; this manipulation may range from construction of extensive drainage ditches to simply burning off the brush from a barrow pit, enabling it to collect water. Because of the wide variety of situations, it will frequently be necessary to contact the claimant to identify the point of diversion for a waste and seepage claim.

- If the waste and seepage is ponded on the surface, the POD should be where the water leaves the ponded area.
- If the exact boundaries of the collection area are known, the POD will be where the water leaves the collection boundary.
- If the exact boundaries of the collection area are not known, the POD will be where the water leaves the drain ditch to the POU.
- If the exact boundaries of the collection area are known, but the location of where the water leaves is not, (e.g. several locations or unresolved) the POD should be the length of the collection area.

4. POD Issues. Any pertinent POD issues unresolved during claim examination may be remarked on the department's examination report using a point of diversion (PD) remark. Some potential POD issue areas follow.

a. Claimed POD Incorrect. If a claimed POD appears incorrect and cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P40 PD51THE POINT OF DIVERSION APPEARS TO BE INCORRECT.
THE POINT OF DIVERSION APPEARS TO BE IN THE SWSWSW
SEC 30 TWP 99N RGE 99W ALBERTA COUNTY.

**** PD51IT APPEARS THAT POINT OF DIVERSION NO. 3 IS ACTUALLY IN THE SESESE SEC 1 TWP 20S RGE 35E WYOMING COUNTY.

P50 PD51THE POINTS OF DIVERSION APPEAR TO BE INCORRECT. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P55 PD51IT APPEARS POINT OF DIVERSION NO. 2 MAY BE INCORRECT. THE EXISTENCE OF A DIVERSION FACILITY AND CONVEYANCE DITCH CANNOT BE CONFIRMED FROM AVAILABLE DATA.

P57 PD51THE CLAIMED POINT OF DIVERSION MAY BE INCOMPLETE. IT APPEARS THERE SHOULD BE ADDITIONAL POINTS OF DIVERSION ON DEEP CREEK WHICH COULD NOT BE IDENTIFIED FROM INFORMATION IN THE CLAIM FILE.

b. Claimed POD Not Refined. Point specific diversions such as dams, headgates, stationary pumps, and wells should be refined to the nearest reasonable legal land description. The most precise description is normally a ~~1/4~~ section. If a claimed POD is incomplete and cannot be refined through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P36 PD51THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

P37 PD51THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.

P38 PD51THE LEGAL LAND DESCRIPTION FOR POINTS OF DIVERSION NO. 1 AND 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THE CLAIMED POINTS OF DIVERSION CANNOT BE CONFIRMED.

c. Claimed Conveyance Questionable. If the claimed conveyance facility appears in error, not functional, or unable to service the claimed place of use, and claimant contact did not resolve the issue, add a conveyance facility (CV) remark to the department's examination report.

Examples: C145 CV51USE OF THE JOHNSON DITCH TO CONVEY WATER TO THE PLACE OF USE MAY BE QUESTIONABLE.

C150 CV51THE CLAIMED CONVEYANCE DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

C155 CV51THE CONVEYANCE DITCH HAS BEEN SEVERED BY HIGHWAY CONSTRUCTION AND CANNOT CONVEY WATER FROM THE SOURCE TO THE PLACE OF USE.

d. Secondary POD Without Initial POD. A secondary POD claimed without initial POD requires claimant contact if the initial POD cannot be determined from the claim file, data sources, or other claims. If the initial POD can not be identified and is not supplied by the claimant, add an issue remark to the department's examination report.

Example: P60 PD51THE CLAIMED POINT OF DIVERSION IS NOT THE INITIAL POINT THAT WATER IS DIVERTED FROM THE SOURCE. THE INITIAL POINT CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

e. Prolonged Nonuse. If the claim file, data sources, or claimant contact confirm that a POD has not been in use for an extended period of time, add an issue remark to the department's examination report.

Examples: P65 PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 3 HAS NOT BEEN USED SINCE 1958.

**** PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 2 IS INOPERABLE AND HAS NOT BEEN USED SINCE 1959.

f. Point Of Diversion Not On Claimed Source. See "Source Name: Source Name Issues: POD Not On Claimed Source" above.

g. Point Of Diversion Not In Montana. If the POD is determined to be outside Montana, add both of the following remarks.

Examples: **** PD01POINT OF DIVERSION IS IN THE SENENW SEC 10 TWP 18N RGE 21E LEMHI COUNTY, IDAHO.

**** PD51AN INTERSTATE USE OF WATER IS INVOLVED. POINT OF DIVERSION IS IN IDAHO.

Wyoming, South Dakota, and part of North Dakota touching the Yellowstone River division are exceptions because interstate use between Montana and these states is governed by a compact. Contact the program manager for processing instructions for interstate claims involving these states.

h. Post-6/30/73 Changes. Post-6/30/73 change in point of diversion not in accordance with §85-2-402, MCA. See Special Provisions: Changes in Appropriation Right.

5. Interbasin Transfer Or Potential Interbasin Groundwater (GW) Effect. An interbasin transfer of surface water occurs when water is diverted in one basin, and used in whole or in part, in another basin.

Potential interbasin groundwater effect involves claims for groundwater which may affect water rights outside the basin of

diversion. Generally, an affect to water rights within a basin will be considered to occur when a groundwater claim outside the basin is:

- greater than one cfs, and
- within a mile of the basin boundary.

For example, a well at Twin Bridges (basin 41B) for 600 gpm within one mile of the basin boundary may potentially effect groundwater claims in 41C, 41D and 41G.

All interbasin transfers and GW effects involving irrigation and other uses claims will be denoted on the decree abstract. Interbasin transfers and GW effects involving stockwater or domestic claims will only be denoted if the claim is to a water right also used for other uses or irrigation. For example, an irrigation and stock claim were submitted on the same filed notice of appropriation. Both divert water in basin 41B for use in basin 41C. The decree abstracts would denote both claims as interbasin transfers.

a. Identifying Interbasin Transfers. Prior to examining claims, a check for interbasin transfer and GW effect claims should be made. Using USGS topographic maps, conduct a search along the basin lines, on both sides, for likely areas of interbasin transfer or GW effect. Typically these are

- basin junctions where streams meet
- basin boundaries in flat or gently sloped terrain
- basin boundaries on mountain saddles
- basin boundaries running down mountain slopes into valleys

Send a list of sections in such areas to the records section requesting general purpose abstracts by POU for all claims in those sections. Check the POD and POU on each abstract against the USGS topographic maps to determine whether it involves an interbasin transfer or GW effect.

If the area of responsibility of other regional offices is within or adjacent to the basin being examined, contact them to determine whether they are aware of interbasin transfers into the basin.

b. List Of Interbasin Transfers. A list of all interbasin transfers and GW effects will be compiled as an ongoing process for each basin. The list will contain

- the claim number
- basin of the POD
- basin of the POU
- source type code

Interbasin transfers either out of or into a basin will be on the list. It should be readily accessible to all SB staff in the office, e.g., posted on the wall. Add any pertinent claims to lists

being maintained on other basins. Notify other offices of interbasin transfer claims in basins they are examining as they are discovered.

Upon completion of examination of the basin, submit the list to the records section supervisor. Send a copy to regional offices with adjacent basins in their area.

c. Denoting Interbasin Transfers. Identify all claims which include interbasin transfer or GW effect by adding one of the following interbasin transfer (TI) remarks to the decree abstract to explain the interbasin relationship.

- Where the entire place of use is in a basin separate from the point of diversion basin:

T10 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

- Where only a portion of the place of use is in a basin separate from the point of diversion basin:

T15 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE JUDITH RIVER DRAINAGE (BASIN 41S) AND THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

- Where a claim involves a potential groundwater affect:

T20 TI01THIS APPROPRIATION OF WATER TAKES GROUNDWATER FROM THE WILLOW CREEK DRAINAGE (BASIN 41N). THIS USE MAY POTENTIALLY AFFECT WATER RIGHTS IN THE MARIAS RIVER DRAINAGE (BASIN 41P). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER BASIN.

d. Reviewing Interbasin Transfer Claims. Claims involving an interbasin transfer will be decreed in the POD basin and noticed in the POU basin.

For the POD basin, the claim shall be examined and reported using the examination rules applicable to the examination of all other claims in the basin.

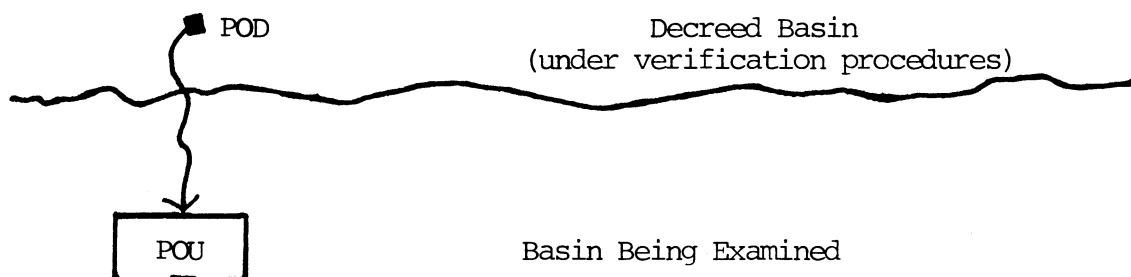
In the POU basin, the claim will only be noticed (see Figure VI-5). If the POD basin has not been examined, then the claim shall be examined in the POU basin. If the POD basin has been examined, then no further review need be made of the claim in the POU basin.

The computer will be programmed to print the notice in the POU basin decree. The notice abstract will only print interbasin transfer (TI) and place of use (PL) remarks; all others will be suppressed.

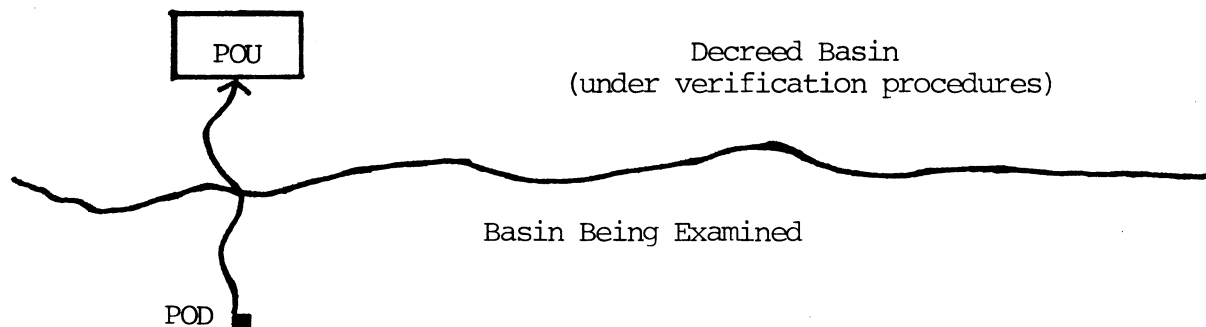
Interbasin Transfers Decreed Under Verification Procedures.

Interbasin claims in basins decreed prior to 1992 were decreed under the verification procedures. When these claims are to be included in a basin examined using the Claim Examination rules, the following procedures will apply.

- Interbasin claims where the POD is in the decreed basin under the old format will be reviewed again under the Claim Examination rules in the POU basin. If this review finds additional issues, bring these to the water court's attention by letter. Replace the old format "DE" remark with the "TI" remark. The claim will be decreed in the POU basin as shown in Figure VI-5.



- Interbasin claims where a portion or all the POU is in the decreed basin under the old format will be reviewed again under the Claim Examination rules and entered into the POD basin decree in the new abstract format. Replace the old format "DE" remark with the "TI" remark. When the POU basin goes to the next stage of the adjudication process, the interbasin claim will be abstracted as shown in Figure VI-5.



Check whether objections have been filed on these types of claims. If so, contact the water master for status of the claim. If the objection has been resolved, request a copy of the master's report to update claim during examination. If the examination of the updated claim has found issues, discuss with the water master that these issues will be reported to the water court using the above procedures.

TEMPORARY PRELIMINARY DECREE
SHIELDS RIVER
BASIN 43A
ABSTRACT OF WATER RIGHT CLAIM

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PAGE 1

WATER RIGHT NUMBER 43B -W-020822-00

***** THIS IS AN INTERBASIN TRANSFER CLAIM *****

THE POINT OF DIVERSION FOR THIS WATER RIGHT IS LOCATED IN ANOTHER BASIN. THE ABBREVIATED INFORMATION PROVIDED HERE IS TO DESCRIBE THE PLACE OF USE IN THIS BASIN. COMPLETE INFORMATION DESCRIBING THE ENTIRE RIGHT CAN BE FOUND IN THE POINT OF DIVERSION BASIN DECREE.

FOR THE CURRENT STATUS OF THE POINT OF DIVERSION BASIN, CONTACT THE MONTANA WATER COURT OR THE DNRC AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK DRAINAGE (BASIN 43B) AND USES IT IN THE SHIELDS RIVER DRAINAGE (BASIN 43A). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE EXAMINATION PROCESS. THESE CHANGES ARE AUTHORIZED BY THE MONTANA WATER COURT OR THE WATER RIGHT CLAIM EXAMINATION RULES AS ADOPTED BY THE MONTANA SUPREME COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." UNLESS OBJECTED TO OR CALLED IN ON MOTION OF THE MONTANA WATER COURT IN THIS DECREE OR IN THE PRELIMINARY DECREE, THE ELEMENTS OF THIS CLAIMED WATER RIGHT WILL APPEAR IN THE FINAL DECREE AS SHOWN ON THIS ABSTRACT. (SEE SECTION 85-2-233, MONTANA CODE ANNOTATED.)

<u>OWNERS:</u>	HOFFMAN	DONALD	
	PO BOX 83		
	CLYDE PARK	MT	59018
	HOFFMAN	MYRTLE	A
	PO BOX 83		
	CLYDE PARK	MT	59018

PURPOSE (USE): IRRIGATION
TYPE OF IRRIGATION SYSTEM: FLOOD

SOURCE: DUCK CREEK, WEST FORK
SOURCE TYPE: SURFACE WATER

PRIORITY DATE: JUNE 10, 1895

FLOW RATE:

VOLUME:

MAXIMUM ACRES:

PERIOD OF USE:

POINT OF DIVERSION AND MEANS OF DIVERSION:

PLACE OF USE FOR IRRIGATION:

TEMPORARY PRELIMINARY DECREE
SHIELDS RIVER
BASIN 43A
ABSTRACT OF WATER RIGHT CLAIM

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WATER RIGHT NUMBER 43B -W-020822-00 (CONTINUED)

PLACE OF USE CONTINUED:

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
001	500.00						30	02N	11E PARK
TOTAL	500.00								

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING BASINS OR SUBBASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC EXAMINATION RESULTS AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 879, BOZEMAN MT 59771-0879.

6. Basin Code. A basin code is assigned based on the legal land description of the claimed point of diversion. The basin code identifies claims for inclusion in a particular decree and legal public notice procedures. The concern for determining the proper basin code is not limited to getting mislabeled claims out, but also for getting proper but mislabeled claims in.

a. Reviewing Basin Codes. After identifying and clarifying the claimed PODs, review for accuracy the basin code assigned to the claim. Care should be taken that the basin code was not determined using a secondary POD.

On the examination worksheet, the basin code is found at the top within the claim number, and below the point of diversion and means of diversion elements.

Check the POD legal land description against the Atlas of Water Resources in Montana by Hydrologic Basin. For greater accuracy, transpose basin lines onto larger scale maps such as USGS topographic maps, US Forest Service, or BLM maps.

If the basin code on a claim is incorrect, check all claims within the ownership to verify that all the basin codes on the claims are correct.

b. Correcting Basin Codes. A claim with an incorrect basin code should be corrected immediately.

Non-decreed Claim Corrected To A Non-decreed Basin. Indicate the correct basin code on the worksheet, claim form, and claim folder label. Complete a basin correction target for each file, Exhibit VI-5.

If the claim files for the correct basin are not in the regional office, send the entire misbasined file to the records section in Helena with a note indicating the basin correction. Make any required additions or changes to the printed logs and indexes kept in the regional office. In Helena, the basin code will be changed in the computer data base, the basin correction target filmed, the microfilm jacket corrected, new duplicate microfiche distributed and the claim filed.

If the claim files for the correct basin are in the regional office, send only the basin correction target (Exhibit VI-5) to Helena. Request the target be returned after the basin code has been corrected.

Non-decreed Claim Corrected To A Decreed Basin. Immediately notify the water court by memorandum (Figure VI-6, Version 1) stating the problem and the claims involved. Indicate that after the claims have been examined and processed, the claim files will be sent to the water court.

Indicate the correct basin code on each worksheet, claim form, and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G32 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 40B. CLAIM WAS NOT INCLUDED IN THE BASIN 41C TEMPORARY PRELIMINARY DECREE ISSUED 11/14/90.

When claim examination is complete, send the files to the program manager for review and to have decree abstracts generated. If necessary, the files will be returned to the regional office for corrections. Once complete, the entire claim files will be filmed and forwarded to the water court by the program manager. The program manager will add a note requesting the files be returned if not needed by the water court.

Decreed Claim Corrected To A Decreed Basin. Occasionally, a claim which has been decreed may be found to be misbasined and the correct basin has also been decreed. Immediately notify the water court by memorandum (Figure VI-6, Version 2) indicating the following:

- If the claims have been objected to and are at the water court, request they return the files for correction. Indicate the claims can be returned to the water court if requested; otherwise they will be stored with the appropriate basin files.
- If the claims have not been objected to, indicate the necessary corrections will be made and the files will be stored with the appropriate basin files.

After the claim files are obtained, indicate the correct basin code on each claim form and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G33 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43A AND WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE ISSUED 08/03/88. CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

Send the files to the program manager for review. The basin code will be changed in the computer data base and a corrected decree abstracts generated. The relevant information will be filmed and the claim files will be forwarded to the water court, or stored with the appropriate basin files.

Decreed Claim Corrected To A Non-decreed Basin. Immediately notify the water court by memorandum (Figure VI-6, Version 3) indicating the following:

FIGURE VI-6
(Regional Office Letterhead)

MEMORANDUM

TO: Montana Water Court

FROM: Kraig Van Voast, Water Resources Specialist

DATE: February 20, 1991

SUBJECT: Basin Correction to Claim Nos. W022062-00 and W022063-00.

****VERSION 1** Non-decreed Claim Corrected To A Decreed Basin.**

During the examination of Claim Nos. W022062-00 and W022063-00, it was discovered these claims were incorrectly designated to Basin 40J. After reviewing data sources, it was confirmed these claims are actually located in Basin 40K. Basin 40K was issued into temporary preliminary decree on November 21, 1989.

After examination of these claims is completed, the files will be sent to Helena for processing. The files and decree abstracts will then be sent to the Water Court.

If you have any questions, please feel free to call me.

****VERSION 2** Decreed Claim Corrected To A Decreed Basin.**

Recently it was discovered that Claim Nos. W022062-00 and W022063-00 were incorrectly designated to Basin 43A. After reviewing data sources, it was confirmed that these claims are actually located in Basin 43B. Basin 43B was issued into a temporary preliminary decree on January 16, 1985.

According to our records, these claims were objected to and may currently be at the water court. If so, please return the claim files to this office for correction and further processing. Also, please indicate whether the files should be returned to the court. Otherwise, the files will be stored with the appropriate basin files.

Upon receipt of the files, the necessary corrections will be made and the files will be sent to Helena for processing. The files and updated decree abstracts will then be sent to the Water Court or archived.

If you have any questions, please feel free to call me.

****VERSION 3** - Decreed Claim Corrected To A Non-Decreed Basin.**

Recently it was discovered that Claim Nos. W022062-00 and W022063-00 were incorrectly designated to Basin 40C. After reviewing data sources, it was confirmed that these claims are actually located in Basin 42KJ. Basin 42KJ has not yet been decreed.

According to our records, these claims were objected to and may currently be at the water court. If so, please return the claim files to this office for further correction and further processing. Also, please indicate whether the files should be returned to the court. Otherwise, the files will be stored with the appropriate basin files and reviewed when Basin 42KJ is examined.

Upon receipt of the files, the necessary corrections will be made and the files will be sent to Helena for processing. The files and updated decree abstracts will then be sent to the Water Court or archived.

If you have any questions, please feel free to call me.

- If the claims have been objected to and are at the water court, request they return the files for correction. Indicate the claims can be returned to the water court if requested; otherwise they will be stored with the appropriate basin files and reviewed when the basin is examined.
- If the claims have not been objected to, indicate the necessary corrections will be made and the claim files will be stored with the appropriate basin files and reviewed when the basin is examined.

After the claim files are obtained, indicate the correct basin code on each claim form and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G34 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43A AND WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE ISSUED 08/03/88.

Send the files to the program manager for review. The basin code will be changed in the computer data base and the relevant information will be filmed. The claim files will be forwarded to the water court, or stored with the appropriate basin files and reviewed when the basin is examined.

c. Correcting Basin Lines. Attention should be paid to the accuracy of basin boundaries as delineated in the Atlas of Water Resources in Montana by Hydrologic Basin. Any changes to these basin lines must be reviewed and approved by the regional manager.

Once approved, make the correction to all basin line maps and topographic maps in the office. Notify the entire regional office staff, other regional offices, and the program manager.

A check for claims affected by the correction should be made immediately after changing a basin line.

G. MEANS OF DIVERSION

The means of diversion (MOD) is the structure, facility, or method used to divert and initiate conveyance of water from the source of supply. It can vary for each POD claimed. Each claimed diversion means will be consistently described on the decree abstract. By standardizing the means of diversion, the quality of the computer data base is improved making indexes or listings containing MOD more accurate and reliable. When the source is a well, no MOD will be printed on the examination worksheet. The decree abstract will indicate the MOD as a well.

1. Identifying Claimed Means Of Diversion. Because of the limited number of choices provided by the claim forms, the diversion means listed on the examination worksheet may not accurately reflect the claimant's intent, or be as precise as possible. Furthermore, a single method of diversion may have had several names applied to it by claimants.

Compare the diversion means listed on the examination worksheet with the claim file. The claimant's map, documentation, and the examination worksheet should clearly and consistently reflect the claimant's intent.

If the claimant's intent is not clear, contact the claimant. When claimant contact is inconclusive, note the problem on the examination worksheet and add the following remark to the examination report:

Example: D50 DM51THE CLAIMED MEANS OF DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

2. Standard Means Of Diversion Descriptions. All means of diversion should be standardized to one of the codes on Figure VI-7. Use Figure VI-7 along with the claim file and any claimant contact to determine when a claimed means of diversion must be changed for consistency. "DS" and "US" should only be used when no other code (e.g., "LS") is appropriate.

Each POD will have only one means of diversion associated with it. If two or more methods of diversion are occurring, normally identify these as separate PODs. For example, a stockwater claim involving a pipeline from a spring to a tank and stock drinking direct from the spring and its channel of flow would be categorized as "LS" (direct from source) and "PL" (pipeline) using two POD descriptions.

In other situations, a clearly subordinate means of diversion could be added as a DM remark. For example, a domestic claim indicating pump and bucket for one POD legal could be categorized a "PM" for the means of diversion along with a DM remark.

Example: D10 DM01BUCKET USED AS AN ADDITIONAL MEANS OF DIVERSION.

**FIGURE VI-7
MEANS OF DIVERSION GUIDELINES**

<u>Diversion Method</u>	<u>Standardized Name</u>	<u>Code</u>
Bucket, Pan, or other container	Bucket	BK
Diversion Dam (or "Wing" dam) without impoundment	Diversion Dam	DD
Dike (i.e., spreader dike)	Dike	DK
Dam w/Impoundment	Dam	DM
Dam With Pit	Dam/Pit	DP
Drain Ditch, Collection Ditch	Drain Ditch	DR
Developed Spring, (man-made work involved-no specific method identified)	Developed Spring	DS
Ditch	Ditch	DT
Flowing (OBSOLETE)	Flowing	FL
Headgate	Headgate	HG
Infiltration Gallery	Infiltration Gallery	IG
Instream Use (usually only for FW or RC claims)	Instream	IN
Livestock Drinking Directly From Source (can be used for WI)	Direct From Source	LS
Natural Overflow	Natural Overflow	NO
Pipeline, Hose Directly In Source	Pipeline	PL
Pump (e.g., electric pump, fuel pump, hand pump, hydraulic ram, windmill)	Pump	PM
Sump or Pit	Pit	PT
Spring Box	Spring Box	SB
Natural Subirrigation	Subirrigation	SI
Undeveloped Spring (no man-made work involved)	Undeveloped Spring	US
Other	Add DM01 remark describing diversion means	XX

A diversion means (DM) remark can be used to further explain a diversion system that is only generally explained by the standard means of diversion codes. Such information will be identified on the department's examination report.

Example: D45 DM01WATER COLLECTED IN FOSTER WASTE DITCHES IN THE N2 SEC 05 TWP 07N RGE 16E WHEATLAND COUNTY.

When a MOD cannot be standardized to one found in Figure VI-6, change the diversion means code on the worksheet to XX and add a diversion means (DM) remark to the decree abstract.

Example: D25 DM01THE MEANS OF DIVERSION IS A FLUME.

Stockwater Reservoirs. The means of diversion for stock drinking directly only from an onstream reservoir should be "DM" to identify the dam as the means of diversion. If stock are drinking from stream channels above or below the reservoir as well as from the reservoir itself, the means of diversion should be "DM" for the reservoir point of diversion and "LS" for the stock drinking direct diversion.

3. Examining Means Of Diversion. Examine each claimed means of diversion for consistency, accuracy, and operational status. Compare the MOD on the claim and worksheet to various data sources. These data sources include

- claim file
- aerial photographs or orthophotoquads
- topographic maps
- Water Resources Survey

The review of a claimed means of diversion for accuracy will primarily be subjective. Review the claim file and data sources for confirmation of the operational status of means of diversion. When the means of diversion on various claims for a common POD appear inconsistent, or other questions arise concerning claimed means of diversion, initiate claimant contact.

To improve consistency in reviewing diversion means, it is suggested that all claims from a particular source be reviewed as a block, and by the same examiner. Within a source, all claims should be pulled for review by point of diversion. Remember that claims with the same POD legal land description may have separate diversion structures. Check the claim file to determine if the same diversion or conveyance (e.g., ditch) is described.

a. Changing MOD. The claimed MOD will not be changed during the examination unless

- amended by the claimant;
- clarified by the department to consistently identify similar means of diversion;

- clarified by the department on confirmation by the claimant.

Changes may be made directly to the worksheet. Place an asterisk on the worksheet in the brackets to the left of the POD heading to denote a change to a MOD that differs from that on the claim form. Exceptions to using an asterisk are a change from one department assigned code to another where the claimed intent is not changed, e.g., "LS" to "DM", "FL" to "PL" or "FL" to "LS". Such changes only require a check mark in the blank at the left margin of the worksheet.

b. Claimant Contact. Whenever the claimed means of diversion is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. This contact can have several outcomes.

- Information discussed confirms the claimed MOD. Document the information supporting the claimed MOD.
- A MOD different from that in the claim file is identified. The claimed MOD may be changed on confirmation by the claimant. Document the data substantiating the new MOD and the discussion with the claimant. As an alternative, an amendment can be submitted to change the claimed MOD.
- A new MOD in addition to those claimed is identified. This information can only be added by amendment.
- If the issue is unresolved either because no substantiating data can be found or a different MOD is substantiated but the claimant wants to retain the claim as is, add a MOD issue remark containing the correct MOD to the department's examination report.

4. Means Of Diversion Issues. Any pertinent means of diversion issues discovered during claim examination should be addressed by contacting the claimant. If claimant contact does not resolve the issue, add a diversion means (DM) issue remark to the department's examination report. Some potential means of diversion issues and example remarks are as follows.

- Claimed MOD appears incorrect.

Examples: D55 DM51THE MEANS OF DIVERSION APPEARS TO BE INCORRECT.
THE MEANS OF DIVERSION APPEARS TO BE A PUMP.

**** DM51MEANS OF DIVERSION NO. 3 APPEARS TO BE INCORRECT.
LOCAL RESIDENTS HAVE IDENTIFIED A DRAIN DITCH.

D65 DM51THE CLAIMED MEANS OF DIVERSION APPEARS TO/MAY BE
INCORRECT AND CANNOT BE CONFIRMED DUE TO LACK OF
DATA.

- Two or more means of diversion claimed for a single POD, which could not be resolved through clarification or claimant contact.

Example: D70 DM51TWO SEPARATE MEANS OF DIVERSION HAVE BEEN CLAIMED FOR THE POINT OF DIVERSION IN THE SESESE SEC 12 TWP 99N RGE 99E MANITOBA COUNTY.

- Two or more means of diversion claimed by separate claims for a single POD.

Example: D75 DM51THE CLAIMS FOLLOWING THIS REMARK CLAIM DIFFERENT MEANS OF DIVERSION FOR WHAT APPEARS TO BE A SINGLE POINT OF DIVERSION IN THE NWNWNW SEC 36 TWP 99S RGE 99W IDAHO COUNTY. W000000-00, W000000-00, W000000-00, W000000-00.

- No means of diversion claimed.

Example: D80 DM51NO MEANS OF DIVERSION WAS CLAIMED.

H. RESERVOIRS

A reservoir, or pit, is a water storage facility created by manmade means that impounds water, storing it for beneficial use. Included are natural lakes that have had water levels raised by manmade means. A reservoir should only be identified as an element of a water right if control of the reservoir is part of the exercise of that right. Some reservoirs were claimed where control of the reservoir is not part of the claimed use. For example, stored water in Hungry Horse Reservoir is part of the U.S. Bureau of Reclamation's rights for power generation on the South Fork of the Flathead River, but storage is not part of rights for summer homes on Flathead Lake.

The purpose of this chapter is to outline the specific procedures unique to reviewing reservoirs. Examine all elements of claims that include reservoirs using the procedures pertinent to the claimed purpose. Flow rate and volume procedures, as they relate to reservoirs, are also addressed in the chapters pertaining to the purpose of the reservoir.

1. Identifying Claimed Reservoirs. When a reservoir has been claimed or clarified on the claim form, a reservoir record will be printed on the examination worksheet between the POD and POU. Review the claim file and outside data sources to confirm the existence of the reservoir. Useful sources include aerial photos, topographic maps, and Water Resources Survey materials. If the reservoir cannot be confirmed, contact the claimant. If necessary, a field investigation may be conducted.

If a reservoir has been claimed or depicted on the claimant's map but does not appear on the examination worksheet, it may be added using a reservoir code sheet (Exhibit IV-4). See part 3 below for reservoir record information. If it is determined from information in the claim file or other data sources that a reservoir exists which has not been claimed, normally claimant contact would be required to determine whether the reservoir is part of the use claimed prior to adding the reservoir record.

Source Name. The source name for a claim including a reservoir is the name of the stream from which water is diverted or impounded. If there is more than one named stream flowing into an onstream reservoir use the name of the outflowing stream. If there is no named outflowing stream, the source will be UT of the first named stream to which the source is a tributary (or UT). The source is not the reservoir name.

Unique Features or Aspects. Any unique aspects or features of a reservoir may be remarked using a reservoir name (RN) remark.

Examples: R65 RN01THE RESERVOIR IS A DAMMED OXBOW OF THE OLD MILK RIVER CHANNEL.

R70 RN01MANMADE PIT IN BOTTOM OF NATURAL LAKE.

2. Collecting Reservoir Data.

a. The Reservoir Information Worksheet. In an effort to provide information in the claim file for water court consideration in decreeing water use from reservoirs, a reservoir information worksheet (Exhibit VI-6) has been developed. The worksheet addresses the general information on the history, condition, operation, and dimensions of the reservoir.

b. When A Reservoir Information Worksheet Must Be Completed. A worksheet must be completed and added to the file of each claim where control of a reservoir is a part of the right, and:

- the claimed volume is greater than 15 acre-feet (a worksheet should also be completed when the claimed volume is less than 15 acre-feet but it appears the reservoir is larger than 15 acre-feet), or
- the claim file contains specific reservoir data which pertain to the items listed on the worksheet, or
- specific reservoir data is readily obtained from published data sources such as
 - i) project files at local BLM offices
 - ii) state water conservation projects book
 - iii) USBOR project data book (1981)
 - iv) miscellaneous published information from MPC, WWPC, etc.
 - v) DNRC Dam Safety Bureau

c. Completing The Reservoir Information Worksheet. Only one worksheet is needed for all claims on a single reservoir; list the claim numbers and purposes at the top of the worksheet. Example: W999999-00 (IR), W999998-00 (ST), W999997-00 (MN). Copies of the completed worksheet should be placed in each file.

The worksheet may be completed by either the reviewer or the claimant.

Step 1. Review the claim file to determine the extent to which submitted materials provide the information requested in part A of the worksheet. If the information is in the claim file, complete part A of the worksheet and the "DNRC Reservoir/Pit Estimate" section to confirm the data in part A. See part e. below for confirming reservoir data. It is not necessary to contact the claimant to complete parts B and C.

If the information needed to complete part A can be readily obtained from published data, either complete part A of the worksheet or add a copy of the published data to the claim file. It is not necessary to contact the claimant to complete parts B and C.

If information is not in the claim file or cannot be obtained from published data, proceed to step 2.

Step 2. Estimate the reservoir/pit capacity. Calculations can be documented under the "DNRC Reservoir/Pit Estimate" section of the worksheet or the comments area of the examination worksheet. If the claimed volume is less than two times the estimated reservoir/pit capacity, use the estimated reservoir data. If the claimant is contacted for other reasons, complete parts A, B and C of the worksheet.

If the claimed volume is greater than two times the estimated reservoir/pit capacity, proceed to step 3.

Step 3. When Steps 1 and 2 cannot be accomplished, claimant contact should be pursued. An in-person or telephone interview is the preferred approach. Complete as much of the worksheet as possible. Another approach is to send the worksheet along with a cover letter (Exhibit IV-8) to the claimant. Complete the "DNRC Reservoir/Pit Estimate" section to confirm the data in part A.

d. Completing The "FOR DEPARTMENT USE ONLY" Area.

DNRC Reservoir/Pit Estimate. Measure the surface acres on the aerial photograph. Assume a depth of 8 to 10 feet, or whatever is common in the area. Analyze the contour lines on a topographic map to help estimate depth. Dam height is the estimated depth plus 3 feet for freeboard. Use depth and surface acres at the maximum water level to calculate the capacity as follows:

The standard equation for figuring reservoir capacity is:

Surface Acres X Depth X .4 = Capacity in acre-feet

For pits, the standard equation is:

Surface Acres X Depth X .5 = Capacity in acre-feet

Information Obtained. Use this area to document where the information from parts A, B and C were obtained. More than one area may be checked.

e. Confirming Reservoir Data. When the information in part A of the worksheet is from other than published data, review this information for reasonableness. Compare this information to the "DNRC Reservoir/Pit Estimates" section on the worksheet. If the claimed volume is greater than two times the estimated reservoir/pit capacity, contact the claimant. If contact is inconclusive, retain the claimant's data and add the following issue remark.

Example: R77 RN51THE MAXIMUM STORAGE CAPACITY OF THIS RESERVOIR MAY BE QUESTIONABLE. ACCORDING TO DNRC ESTIMATES, THE MAXIMUM STORAGE CAPACITY IS 40.00 ACRE FEET.

f. Referencing Reservoir Data. When a reservoir worksheet is added to the claim file, where parts A, B or C have been completed, add a reservoir remark to the department's examination report.

Example: R75 RN01SEE THE RESERVOIR WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

If a copy of published data is added to the claim file in lieu of a reservoir worksheet, add a reservoir remark to the department's examination report.

Example: R76 RN01SEE THE MONTANA RESOURCES BOARD DAM INVENTORY WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

3. Reservoir Record. A reservoir record is used to store reservoir data in the computer data base. Each reservoir will have only one reservoir record associated with it.

A reservoir record is required for (1) claims where control of a reservoir or pit is part of the right, or (2) claims where control of the reservoir is not part of the right but a standardized reservoir/lake name is identified.

If the reservoir record is missing from the worksheet, it may be created by means of a reservoir record code sheet (Exhibit IV-3). See "Examination Materials and Procedures: Code Sheet Instructions."

The format for the reservoir data line on the examination worksheet is:

RESERVOIR:							
	ON/OFF/R	QTR	SEC	SEC	TWP	RGE	CNTY
RS01	N		NENE	03	27N	38E	VA
RESERVOIR/LAKE NAME:		Old Miller Pond					
RESERVOIR DATA: CAPACITY <u>9999999.9</u> DAM HT <u>999</u> SURFACE AREA <u>99999.99</u>							

Add or change reservoir data to the fields on the worksheet. On older worksheets, write the data clearly on the worksheet to the right of the onstream/offstream designation. Place a checkmark, in the left margin to alert the coders to the additional data.

As an alternative, a reservoir code sheet may be used. The entire record must be completed including the legal land description and reservoir name, if any. If a reservoir record already exists, code the "Action" byte as "C" for change.

a. Onstream/Offstream Checkoff. Check that the appropriate code appears in the "ON/OFF" area of the worksheet or "ENLG" space on the reservoir/lake code sheet. If not, add or

correct it as necessary and place a checkmark in the margin of the worksheet.

- "Y" defines an offstream storage facilities with a diversion on the source and a manmade conveyance system to the reservoir, and where control of the reservoir is part of the exercise of the right.
- "N" defines an onstream reservoir where water is impounded on the natural channel of the source and where control of the reservoir is part of the exercise of the right.
- "R" is used for natural lakes and reservoirs where storage is not part of the right but a standardized reservoir/lake name is identified. On the decree abstract, the reservoir/lake name prints under the source and the reservoir record is suppressed..

b. Legal Land Description Of Impoundment. When the claimant has control of the reservoir as part of the right, the legal land description in the reservoir record should be the entire impoundment structure. Make this as clear and concise as possible. If it is necessary to use additional legal land descriptions to describe the impoundment structure, do not use additional reservoir records. Add additional land descriptions in a RN remark. Add these remarks to appear on the decree abstract, but only when the reservoir record will appear there also.

Examples: R35 RN01THE DAM/PIT EXTENDS INTO THE NESW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

R40 RN01THE DAM/PIT EXTENDS INTO THE NWNWNE, NENENW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

Where control of the storage facility is not part of the right, the legal land description in the reservoir record should be where the claimant diverts water from the reservoir. This description should match the land description of the POD; not the dam location.

c. Reservoir Name. Named reservoirs may be stored as part of the reservoir record. Standardize and retain reservoir names according to the procedures in Claim Examination: Source Name: Lakes And Reservoirs. A claimed reservoir name which is not an acceptable standardized name should not be stored in the reservoir record but may be retained by adding a reservoir name remark. The name will appear in the decree below the reservoir record.

Example: R25 RN01RESERVOIR NAME: OLD MILLER POND

If a reservoir record is needed and there is no standardized reservoir name, complete the reservoir record code sheet but do not complete the reservoir name portion.

d. Maximum Storage Capacity. For onstream and offstream ("N" and "Y") reservoirs, add the maximum storage capacity to the computer data base if known. This information is not needed for "R" type reservoirs.

Maximum storage capacity is measured in acre-feet. When the maximum reservoir capacity has been determined, either by actual data or estimation, add this figure to the appropriate place on the examination worksheet. It will appear on the decree abstract under Reservoir.

When the maximum storage capacity, dam height or surface area have been estimated by the department, add a remark to the decree abstract.

Examples: R55 RN01THE CAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE BEEN ESTIMATED BY DNRC.

R56 RN01THECAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE/HAS BEEN ESTIMATED BY DNRC.

If the data to calculate an actual maximum capacity is later obtained, replace the estimated figures with the actual figures, and remove or modify the remark.

e. Dam Height And Surface Area. For onstream and offstream ("N" and "Y") reservoirs, add the dam height and surface area to the computer data base if known. This information is not needed for "R" type reservoirs.

Dam height is the vertical distance from the lowest point on the dam crest to the lowest point on the natural ground (including any stream channel) along the downstream toe of the dam. When the total dam height is estimated, it should equal the known or estimated reservoir depth plus 3 feet for freeboard.

4. Reservoir Issues. Any pertinent reservoir issues should be addressed by contacting the claimant. If the claimant contact does not resolve the issue, add a remark to the department's examination report. Some potential reservoir issues and remarks are as follows.

Washed Out Reservoirs. If the aerial photograph, or other data sources indicate that the reservoir is washed out, or otherwise not usable, add a remark to the examination report.

Example: R80 RN51RESERVOIR APPEARS WASHED OUT ON USDA AERIAL PHOTOGRAPH NO. 179-152, DATED 08/05/79.

Incremental Development. A reservoir may be encountered that appears from a data source (including the questionnaire) to have been constructed or enlarged later than the claimed priority date. Attempt to find out when the reservoir was constructed or enlarged. If the reservoir was constructed or enlarged later than the claimed

priority date, the issue should be denoted on the department's examination report.

- Examples: R85 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS CONSTRUCTED IN 1951 WHICH DOES NOT CORRESPOND TO THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
- R90 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS ENLARGED IN 1940. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
- R91 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, A PIT WAS CONSTRUCTED WITHIN THE RESERVOIR IN 1962 WHICH DOES NOT CORRESPOND WITH THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.
- R95 RN51THE RESERVOIR IS NOT SHOWN IN THE STILLWATER COUNTY WATER RESOURCES SURVEY (1946). IT APPEARS TO HAVE BEEN BUILT AFTER THE ORIGINAL APPROPRIATION AND MAY INDICATE AN EXPANSION OF THE WATER RIGHT.

Reservoir Unconfirmed. If a reservoir cannot be confirmed from data sources or claimant contact, add the following remark to the examination report.

Example: R100 RN51EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

Questionable Storage Right. Through examination, it may be encountered where an existing reservoir has been claimed, but it is questionable whether a storage right exists. For example, a reservoir dam is located on Party A's property and water backs up onto Party B's property. Both parties have submitted claims for the same reservoir. In this situation, Party B may or may not have a storage right to the reservoir.

Claimant contact should be pursued. If Party B has no easement or financial involvement with the reservoir, Party B may request or amend the claim to remove the reservoir (assuming a stock claim, the POD would equal POU and means of diversion would be LS). An alternative is to leave the reservoir and add the following issue remark to the examination report.

Example: R105 RN51A RESERVOIR STORAGE RIGHT ON THIS CLAIM MAY BE QUESTIONABLE. THE DAM IS LOCATED ON ANOTHER INDIVIDUAL'S PROPERTY WHICH IS COVERED BY CLAIM NO. W000000-00.

Shared Reservoir. Occasionally, it may be determined through the examination process, that the claimed reservoir will have another claim (different priority date), exempt right, or a post-7/1/73 water right associated to it. This association can be confirmed by information obtained through:

- documentation in the claim file
- claimant contact
- data source research
- notification from New Appropriations that a permit was issued to increase the existing capacity of a claimed reservoir.

Document this association by adding the following AS remark.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME POINT OF DIVERSION/RESERVOIR/POTHOLE LAKE. W000000-00, E000000-00, C000000-00, P000000-00.

When the above situations involve exempt rights or post-1973 water rights, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. P000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This permit is associated to claim no. W000000-00. They share the same reservoir.

Put a copy of the flag (clearly marked "COPY") in the claim file. Send the flag to the Processing Unit in Helena, where an AS remark will be entered into the computer record and the flag will be filmed and filed.

I. TYPE OF RIGHT

The type of historical right upon which a claim is based will be identified on the decree abstract. There are four types of rights which will be encountered and reviewed during the examination process.

- Decreed rights
- Filed rights
- Use rights
- Reserved rights

1. Type Of Right Definitions. For the purposes of this examination, the types of rights are defined as follows.

Decreed Right. A decreed right is a water right previously determined in a judicial decree.

A petition on a decreed stream as described in 89-829 RCM is considered a decreed right, if the petition has been accepted by the district court. A copy of the court judgement must accompany the claim.

Filed Right. A filed right is a water right which has been filed and recorded in the office of the county clerk and recorder. The following documents are those generally encountered which constitute a filed right.

- Notice of Appropriation. Various formats of this form were filed with the county clerk and recorder. See Exhibit VI-9.
- GW Form. See Exhibits VI-10 through VI-13. A GW form used as a filed notice of appropriation for surface water will be accepted if the document was filed at the courthouse.
- Ersatz Notice of Appropriation. Other types of documents filed at the courthouse will be accepted if the source and priority date are stated. If a document is questionable, consult the program manager.

Use Right. A use right is a water right perfected by diverting and putting water to beneficial use without formal notice, filing, or decree.

Documents supporting a use right include affidavits by the claimant or others, well logs, power records, water use records and agreements, etc. Furthermore, a signed and notarized claim form is considered a self-serving affidavit.

A secretarial right is a water right stemming from a homestead entry patent issued by the US Government under the Act of Congress of May 20, 1862. This type of right will be treated as a use right.

Reserved Right. A reserved right is a water right reserved to fulfill the primary purpose of land withdrawn from the public domain by an act of congress, a treaty, executive order, or explicit direction of congress in federal statutes.

Review claims to reserved rights to confirm that it is a reserved right. If there is doubt about whether the underlying right is a reserved right, contact the claimant (see Exhibit VI-14) to obtain confirmation that the type of right being claimed is, in fact, a reserved right. If the claimant contact is inconclusive, send a copy of the claim to the water court with a request that they assist in determining whether the claim is for a reserved right. Use the format of Figure XI-2 with the following title for making the request: "Request for Assistance".

Change the letter prefix of all claims for reserved rights from "W" to "U". Do not examine claims for reserved rights. At this time, the Supreme Court rules do not address how to examine reserved rights. It will be determined later, probably through water court orders, what action will be taken on these claims.

Claims for reserved rights will be suppressed from temporary preliminary decrees pending the outcome of negotiations under Title 85, Chapter 2, Part 7, MCA.

If a claimant has a state-based claim (i.e., use right for stock) on the same development as a reserved claim (i.e., reserved right for wildlife), the legal land description on the reserved claim should be examined. Relate the rights through an associated (AS) remark.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME RESERVOIR.
W000000-00, W000000-00.

2. Examining Type Of Right. Check the documentation submitted with the claim against the above definitions to determine whether the historical right is a decreed, filed, use, or reserved right. Compare the type of right on the claim form to the submitted document based on the criteria in section 1. above.

Sources of information for reviewing type of right include:

- microfiche files of GW forms
- regional office file of decrees
- WRS books and files
- county clerk of court or clerk and recorder

a. Changing Claimed Type Of Right. The claimed type of right will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department.

The following are provided as guidance about when the type of right may be clarified without claimant contact.

- If the type of right is not indicated on the claim form but is clear from the documentation, as defined above, the type of right may be added without obtaining an amendment.
- If the document type and claim form disagree but it is clear that the document substantiates the claimed right (i.e., source, flow rate and priority date agree), the type of right may be changed without obtaining an amendment. Generally this clarification would only be made from use to filed, use to decreed, or filed to decreed. The reverse relationship (filed to use, decreed to use, or decreed to filed) would imply that documentation may be missing. In which case, claimant contact is recommended.

Make any changes to type of right on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the priority date heading. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed type of right is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. The contact can have several outcomes.

- Information discussed confirms which type of right in the claim file is correct. Document the information supporting the claimed type of right, or request documentation to support the claimed type of right (excepting use rights).
- A type of right entirely different from that in the claim file is identified. The claimed type of right may be changed on the instructions of the claimant. Thoroughly document the instructions from the claimant and the data supporting the new type of right. As an alternative, an amendment can be submitted to change the claimed type of right. Obtain documentation of the clarified or amended type of right.
- If the issue is unresolved, add a priority date (PR) issue remark to the department's examination report.

3. Type Of Right Issues. Any pertinent unresolved type of right issues should be noted on the department's examination report using a priority date (PR) remark. Some potential issues and example remarks follow.

a. No Filed Or Decreed Right Documentation. If documentation of a filed or decreed right is not in the claim file and cannot be obtained from the claimant or office records, add a remark to the department's examination report.

Example: P355 PR51THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WERE NOT SUBMITTED WITH THIS CLAIM.

b. Documentation Conflicts With Other Data. If the documentation conflicts with the claim form or outside data sources (e.g. WRS) and cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P360 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A USE RIGHT.

P365 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960) IDENTIFIES THIS RIGHT AS A FILED APPROPRIATION.

c. Filed Or Use Rights On A Decreed Stream. Two situations may be encountered that are issues involving filed or use rights on decreed streams. In either situation the claimed right must be on the decreed source or a tributary that has a right included in the district court decree. Claimant contact is not necessary prior to adding the issue remark.

Situation #1. When a filed or use right has a priority date preceding the date the decree was issued on the source, add the following remark to the department's examination report.

Example: P370 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 0000, POWELL COUNTY.

Situation #2. When a filed or use right has a priority date later than 1921 and postdates the issuance of the decree on the source, add the following remark to the department's examination report.

Example: P370 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 0000, POWELL COUNTY.

There are several circumstances when situation #1 and #2 should not be identified as an issue.

- When the district court decree specifically excludes the use, owner, source, or right from the case.

- Domestic (individual domestic, multiple domestic, lawn & garden) and stock claims which are exempt.

For state project claims based on a private filed or use right acquired by the state and combined with water rights established pursuant to 89-101 through 89-141, add the following remark to the department's examination report.

Example: **** PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RED LODGE CREEK ACQUIRED BY THE STATE WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 247, CARBON COUNTY.

d. No Type Of Historical Right Claimed. If the type of historical right cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Example: P372 PR51NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

J. PRIORITY DATE

Priority date is the allocation date associated with a beneficial use of water which determines ranking among water rights on a source. The priority date will always be expressed as a precise month, day, and year. The claimant was to support the priority date on a claim by submitting a decree, pertinent portion thereof, or other evidence [§85-2-224(2), MCA].

1. Priority Date Review Criteria. This section describes in general terms the procedures for reviewing the claimed priority date. A single priority date will be identified from the documentation for each claim. The following are the criteria for reviewing the claimed priority date.

Decreed Rights. Use the specific date identified in the documentation. The claim form, submitted documentation, office copy of district court decrees, and office decree index should all agree.

Filed Rights. For consistency, the earliest appropriation date on the filed document (generally the date of posting notice) is the priority date. The claim form and documentation should agree.

1962-1973 groundwater appropriation forms are an exception to this. If properly filed, the priority date of a form GW1, 2, or 3 is the date of filing at the county courthouse. The priority date of a form GW4 is the date of first use identified in item 3. See below for specific procedures relating to GW forms.

Use Rights. The claim is a self-serving affidavit for a use right. As a result, the documentation and claim form need not agree, but they should not contradict each other. For example, a claim states May 15, 1934 with an affidavit statement such as "water used prior to 1934" or "the system was being used in the 1930s," would not be contradictory.

2. Examining Priority Dates. Review the claimed priority date according to the guidelines in this section for conformity with the submitted documentation and facts available to the department, and to identify potential issues. In certain cases, the claimed priority date may be changed to standardize the format.

Compare the date on the claim form to the date on the submitted documentation based on the criteria in section 1. above. The priority date should also be compared to other data sources, such as

- copies of district court decrees
- WRS books and materials
- decree indexes

When necessary, the claimant may be contacted to help identify the claimed priority date.

Time Of Day. When claimed, the time of day was entered into the computer record and will appear as part of the priority date on the examination worksheet. A claimed time of day should not be examined, as the computer will suppress them when a decree is printed.

a. Changing Claimed Priority Dates. The claimed priority date will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department;
- standardized for completeness (see below).

An amendment is normally required to change the priority date. The following are provided as guidance about when the priority date may be clarified versus amended.

- If the priority date is incomplete or not on the claim form but it is clear from the documentation, based on the priority date review criteria, the priority date may be added without obtaining an amendment from the claimant.
- If the date on the claim form matches a date on the documentation, the claimed date may be changed without an amendment only to a more senior priority date as identified by the review criteria. This includes situations such as:
 - (i) The filing date on a GW4 was claimed.
 - (ii) A date other than the earliest date on a surface water filing was claimed.
 - (iii) The date a decree was issued was claimed.

Make changes to priority dates directly on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the priority date heading. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed priority date is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. The contact can have several outcomes.

- Information discussed confirms which priority date in the claim file is correct. Document the information supporting the claimed priority date, or request documentation to support the claimed priority date, as necessary.
- A priority date or documentation entirely different from the claim file is identified and the claimant wishes to

replace the claimed priority date. An amendment must be submitted to change the claimed priority date. Obtain documentation of the amended priority date, as necessary.

- If the issue is unresolved, add a priority date (PR) issue remark to the department's examination report.

c. Standardizing Priority Dates. Change the claimed priority date to standardize for completeness under the following criteria. Make the priority date standardization directly on the worksheet.

- No day date. If a day date is not claimed and the submitted documentation does not specify a day date, the last day of the month will be used.
- No month date. If a month date is not claimed and the submitted documentation does not specify a month date, the last month of the year will be used.
- Season. If a season of the year is claimed and the submitted documentation does not specify a month and day date, the last day of the particular season will be used.

Fall.....December 19
Winter.....March 19
Spring.....June 19
Summer.....September 19

General dates such as "Prior to 1950" may not be standardized. Contact the claimant to pursue a specific date.

If contacting the claimant of a filed or use right for other reasons, pursue a specific date for month, day, or season prior to standardization. A specific priority date supplied by the claimant may be added to the worksheet upon instructions from the claimant or by amendment.

3. Priority Date Issues. This section contains guidelines on the handling of various problems encountered in examining priority dates. This series of specific guidelines should be used as a systematic check of the priority date. By comparing the claimed priority date and documentation to the applicable subsections below (a through j) any discrepancies are likely to be identified. These specific guideline sections are

- a. general priority date issues
- b. decreed priority date issues
- c. filed appropriation priority date issues
- d. claimed source vs. documented source
- e. claimed POU vs. documented POU
- f. priority date post-June 30, 1973
- g. duplication
- h. redundant filings

- i. priority date precedes earliest acceptable date
- j. priority date precedes Indian cessation

Whenever the examination indicates that a claimed priority date may involve discrepancies or issues, follow the procedures under the appropriate category. If the issue is unresolved, add a priority date issue remark to the department's examination report.

a. General Priority Date Issues. Similar procedures will be used to address certain problems encountered on all types of rights.

- No priority date was claimed.
- No priority date documentation was submitted to support a decreed or filed right.
- A general year date was claimed, e.g., in the 1950s, before 1900.
- The priority dates on the claim form and the documentation conflict.
- The priority date in the claim file conflicts with outside data sources, e.g., WRS.

In these situations, contact the claimant to resolve the discrepancy, and if necessary request documentation specifying a priority date. Documents that may be submitted by the claimant to confirm the type of historical right and priority date are:

- Decreed right: pertinent portion of decree.
- Filed right: notice of appropriation, or other filed document.
- Use right: a signed letter, affidavit, or amendment. Notarization for the letter or affidavit is preferred but not required.

If the priority date is not confirmed by claimant contact or no documentation is submitted to support a priority date, excepting use rights, add a remark to the examination report identifying the particular problem encountered.

Examples: P355 PR51THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WERE NOT SUBMITTED WITH THIS CLAIM.

P380 PR51NO PRIORITY DATE WAS CLAIMED.

P385 PR51A SPECIFIC PRIORITY DATE HAS NOT BEEN IDENTIFIED. PRIORITY DATE WAS CLAIMED AS PRIOR TO 1950.

P386 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 1882 OR 1982.

P390 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED NOTICE OF APPROPRIATION IS JUNE 10, 1921.

P395 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960) IDENTIFIES THE PRIORITY DATE AS MAY 13, 1913.

P400 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE AFFIDAVIT STATES THE WELL WAS COMPLETED IN THE EARLY 1930'S.

P405 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, IT APPEARS WATER FROM THE SOURCE WAS FIRST USED IN 1980.

b. Decreed Priority Date Issues. The following guidelines are provided to address certain situations encountered on decreed rights.

Right In Decree Not Identified. When a date in the decree was claimed but the individual right being claimed has not or cannot be identified, contact the claimant. If contact is inconclusive, retain the claimed priority date and add an issue remark.

Examples: P415 PR51THE BASIS OF THIS CLAIMED WATER RIGHT WAS NOT FOUND IN THE DECREE FROM CASE NO. 0000, SANDERS COUNTY. THE CLAIMED PRIORITY DATE CANNOT BE CONFIRMED.

**** PR51THE DATE OF ISSUANCE OF THE DECREE, CASE NO. 0000, LAKE COUNTY, WAS CLAIMED. THE INDIVIDUAL RIGHT BEING CLAIMED CANNOT BE IDENTIFIED.

Documentation Contains No Priority Dates. When the pertinent portion of the decree submitted as documentation contains no priority dates, contact the claimant. If it is determined that the decree contains no priority dates, add a priority date issue remark.

Example: P430 PR51CASE NO. 0000, LAKE COUNTY, DOES NOT SPECIFY PRIORITY DATES. A PRIORITY DATE HAS/HAS NOT BEEN CLAIMED.

Decree Assigns Ranking. When the decree assigns the right a priority date and also assigns a ranking, add a priority date remark to identify the ranking as a feature of the right.

Example: P350 PR01CASE NO. 0000, LAKE COUNTY, DECREES A RIGHT OF 38TH USE.

The decree does not assign the right a priority date but only assigns a ranking. Add two priority date remarks. One denoting ranking (above) and the other identifying the lack of priority date.

Example: P430 PR51CASE NO. 0000, LAKE COUNTY, DOES NOT SPECIFY PRIORITY DATES. A PRIORITY DATE HAS/HAS NOT BEEN CLAIMED.

No Specific Day Or Month Dates. If the decree does not specify day or month dates and no specific date has been claimed, standardize the priority date. If the decree does not specify day or month dates, but specific dates have been claimed, accept the claimed priority date. When the flow rate is recorded (see "Irrigation: Flow Rate: Recording Documentation), also record the priority date that will appear on the decree abstract. After all claims for a basin, subbasin, or drainage have been examined, review the decree index.

If the claims against a particular historical right have priority dates which vary or are the same, add a priority date issue remark to the department's examination report for the claims involved.

Examples: P435 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, RAVALLI COUNTY, DOES NOT SPECIFY A DAY/MONTH/DAY AND MONTH. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED VARYING PRIORITY DATES. W000000-00, W000000-00, W000000-00.

P436 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, LEWIS AND CLARK COUNTY, DOES NOT SPECIFY A MONTH AND DAY. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED THE SAME PRIORITY DATE. W000000-00, W111111-00.

c. Filed Appropriation Priority Date Issues. The priority date on the claim form does not match any date on the filed appropriation document. Contact the claimant. If the claimed date is confirmed to be earlier or later than all dates on the notice, a use right is involved. If the contact is inconclusive, add a remark. 1962-1973 groundwater filings (GW forms) are an exception to this. See "Claims Involving 62-63 Groundwater (GW) Forms" below for specific procedures relating to GW forms.

Examples: P445 PR51THE CLAIMED PRIORITY DATE PREDATES/POSTDATES THE FILED NOTICE OF APPROPRIATION. THE CLAIMED PRIORITY DATE AND TYPE OF HISTORICAL RIGHT CANNOT BE SUBSTANTIATED.

P450 PR51THE CLAIMED PRIORITY DATE DIFFERS FROM THE EARLIEST DATE ON THE FILED NOTICE. THE CLAIMED PRIORITY DATE CANNOT BE SUBSTANTIATED.

d. Claimed Source vs. Documented Source. Compare the source name (if any) in the documentation to the standardized source name. Claimed and documentation source names should be identifying the same source of water. If there is an apparent

discrepancy, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

Examples: P455 PR51THE PRIORITY DATE IS MAY BE QUESTIONABLE. THE SOURCE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED SOURCE.

P460 PR51THE PRIORITY DATE IS MAY BE QUESTIONABLE. THE SOURCE DESCRIBED IN CASE NO. 0000, LINCOLN COUNTY, IS INCONSISTENT WITH THE CLAIMED SOURCE.

e. Claimed POU vs. Documented POU. Compare the POU land description in the documentation (if any) to the claimed POU land description. The claimed and documentation POUs should be within the same section or at least the same general locality. Before July 1, 1973, the POU could generally be changed without formal notice. If there is an apparent discrepancy, contact the claimant. If the contact is inconclusive, add a remark to the examination report.

Examples: P455 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

P460 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN CASE NO. 0000, LINCOLN COUNTY, IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

P465 PR51THIS CLAIM TO A FILED APPROPRIATION/DECREEED RIGHT MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN THE MISSOULA COUNTY WATER RESOURCES SURVEY (1960) IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

f. Priority Date Post-June 30, 1973. The claimant will be contacted when a post-June 30, 1973 priority date is claimed. If the post-1973 priority date is confirmed as correct, several options are available to the claimant.

- Claim is withdrawn, and either a new appropriations form 602 or 600 completed.

See "Special Provisions: Termination of a Claim" for claim processing instructions.

It is advised the claimant work with the new appropriations staff prior to withdrawing the claim as their guidelines and standards are different. Give a copy of the claim file to the new appropriations staff.

If the source is groundwater for 35 gpm or less not to exceed 10 acre-feet per year, a form 602 with filing fee is needed to issue a certificate. (The priority date is the date the 602 is received.) If the source is surface water, or groundwater over 35 gpm, the normal permitting

process with fee is required, i.e., a new appropriation application (Form 600) may be submitted. (The date the 600 is received becomes the priority date.)

- Claim is retained. Add the following remark to the department's examination report.

Example: P470 PR51THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973.

g. Duplication. Situations may be encountered where duplicate claims have been submitted for the same water right. Two examples of duplication are as follows.

- A claim for a filed right duplicates a claim to a later decreed right. Furthermore, some decrees specifically nullify particular prior filings. In such circumstances contact the claimant. If the claimant confirms the duplication, he may request that the claim be withdrawn. If contact is inconclusive, add a remark to the examination report on both claims.

Examples: D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

P475 PR51CASE NO. 0000, PARK COUNTY, NULLIFIED THE FILED APPROPRIATION RIGHT SUBMITTED WITH THIS CLAIM.

- When a single filed right, decreed right, or use right is used to document identical claims, contact the claimant. If the claimant confirms the duplication, he may request that one of the claims be withdrawn. If the contact is inconclusive, add a remark to the examination report on both claims.

Example: D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

h. Redundant Filings. Each claim should be based on its own distinct historical appropriation of water, i.e., each claim should have been perfected separately. Often more than one notice of appropriation is filed on a single historic appropriation.

Upon encountering what may be a "paper" right, contact the claimant to understand the history of its use. For example, explore whether the junior rights in a series of multiple rights can be associated with an increase or change in water use. Was an additional ditch constructed? Extended? Was the capacity of the diversion or conveyance system increased? Or, are there no changes

in use or appropriations of additional water associated with the claims?

If contact does not resolve the issue, add a remark to the examination report for all the claims involved.

Examples: D93 DU51CLAIM NOS. W000000-00 AND W000000-00 MAY BE REDUNDANT CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. IT APPEARS THAT ONLY ONE WATER RIGHT IS INVOLVED.

D94 DU51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE REDUNDANT/DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. W000000-00, W000000-00, C000000-00.

i. Priority Date Precedes Earliest Acceptable Date. Each regional office will establish the earliest acceptable priority date for the basin being examined. These dates should be based on the WRS or other historical records. Particular purposes may have different earliest acceptable dates within a basin. Note earliest acceptable priority date in the general basin information file for each basin. As a general rule, any priority date before 1860 should be examined closely.

If the claimed priority date precedes the earliest acceptable priority date as established, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

Example: **** PR51THE CLAIMED PRIORITY DATE PRECEDES 1864, THE EARLIEST GENERAL DATE OF SETTLEMENT WITHIN THE YAAK RIVER DRAINAGE.

j. Priority Date Precedes Indian Cession. The boundaries of most Indian reservations originally included much larger areas than the present boundaries. There were several different cession treaties which altered the boundaries of the various reservations. Many claims have been submitted with claimed priority dates preceding the date that the land was transferred out of tribal ownership. In other words, on the date of priority claimed, it appears the land was under Indian ownership.

Each office has been provided with a map showing successive changes in Indian reservation boundaries. Exhibit VI-15 is an explanation of the Indian cessions map and issue. When a claim has a priority date preceding the cession date for the area, add a priority date remark to the examination report.

Example: P490 PR51AT THE TIME OF THE CLAIMED PRIORITY DATE, IT APPEARS THAT THE PLACE OF USE WAS PART OF AN INDIAN RESERVATION.

k. Priority Date Of A Sprinkler System Predates 1955. When a claim for a sprinkler system lists a priority date

earlier than 1955 and does not indicate a prior flood system, check the WRS, aerial photographs, and other data sources for evidence of a prior flood system and to determine whether the POU could have been flood irrigated. If there is nothing supporting the likelihood or possibility of a prior flood system, contact the claimant. Discuss the apparent inconsistency between the type of system, priority date, and POU. If no prior flood irrigation existed, the claimant may wish to amend the priority date to the date of appropriation for the sprinkler system. If the issue is unresolved, add a priority date issue remark to the department's examination report.

Example: P550 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE.
IT APPEARS THE PRIORITY DATE SHOULD BE THE DATE THE
SPRINKLER SYSTEM WAS FIRST PUT TO USE.

If the sprinkler system was installed after June 30, 1973, and there was no pre-July 1, 1973 use, see "Claim Examination: Priority Date Issues: Priority Date Post-June 1973".

4. Claims Involving '62-'73 Groundwater (GW) Forms.
This section provides guidelines for reviewing wells and developed springs (source type = G) for compliance with the 1961 Groundwater Code (89-2911 through 89-2913, RCM). The code discusses four different types of groundwater forms which were required to be filed at the courthouse. Examples of the GW1, GW2, GW3, and GW4 forms are Exhibits VI-10 through VI-13.

- GW1 Notice of Appropriation of Groundwater
- GW2 Notice of Completion of Groundwater Appropriation by Means of Well
- GW3 Notice of Completion of Groundwater Appropriation Without Well
- GW4 Declaration of Vested Groundwater Rights

The filing of these GW forms at the courthouse was allowed by laws in force prior to April 14, 1981 [§85-2-306(2), MCA].

Compliance with the 1961 Groundwater Code is not required for appropriations from surface water, including "undeveloped" springs (type code = S). Such claims will be treated as surface water appropriations for purposes of reviewing the claimed priority date.

Most of the situations involving groundwater rights will fall into one of three categories: (a) GW Forms Filed, (b) GW Forms Not Filed, and (c) No GW Form.

Throughout this groundwater section, reference is made to '62, '73 and '81. These years represent the following dates:

- 1/1/1962 - the effective date of the 1961 Groundwater Code
- 7/1/1973 - the effective date of the Montana Water Use Act
- 4/14/1981 - filing of GW forms in the courthouse was allowed prior to this date

a. GW Forms Filed. For groundwater claims based on a GW form filed at a courthouse between '62 and '81, examine the claimed priority date in accordance with subsections (1) through (5) below.

(1) GW1 Filed Only. Groundwater claims with a priority date between '62 and '73 that have a filed Notice of Appropriation (GW1) attached but no Notice of Completion (GW2 or GW3) will be pursued further.

- Check the GW microfiche or contact the claimant to determine if a GW2 or GW3 was also filed. If a filed GW2 or GW3 is found, confirm with the claimant that the filing matches the claim. If confirmed, add a copy of the GW2 or GW3 to the claim file and document the confirmation. Use the procedures in (2) below to examine the claimed priority date.
- Check new appropriations records for a possible new appropriation form that may have been filed but not attached to the claim. If such a document is found, confirm with claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriation form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

If a filed GW2, filed GW3, or new appropriations document is not found, the claimed priority date may be questionable. As the claim is a notice of completion pursuant to 85-2-306(2), the issue is whether the claimant may relate his priority date back to the GW1. Add a priority date issue remark to the department's examination report.

Example: P500 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO NOTICE OF COMPLETION WAS FILED. THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED ON JUNE 10, 1965.

If the claimed priority date is prior to '62 and the attached GW1 states a date of first use prior to '62, follow the procedures in (4) below to examine the claimed priority date.

(2) GW1 And GW2 (Or GW3) Both Filed. The priority date for groundwater claims between '62 and '73 that have both a Notice Of Appropriation (GW1) and a Notice Of Completion (GW2 or GW3) should be the filing date of the GW1. When the claimed priority date does not match the filing date of the GW1, contact the claimant. If contact is inconclusive, add a priority date issue remark to the department's examination report.

Example: P505 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) IS DECEMBER 6, 1963.

(3) GW2 Or GW3 Filed Only. The priority date for groundwater claims between '62 and '73 that have a Notice Of Completion (GW2 or GW3) filed prior to '73 but no Notice Of Appropriation (GW1) should be the filing date of the GW2 or GW3. If a discrepancy in priority date exists between the claim form and GW2 or GW3, contact the claimant. If contact is inconclusive, add a priority date issue remark to the department's examination report.

Example: P510 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, IS JANUARY 3, 1964.

If the claimed priority date is prior to '62 and the attached GW2 or GW3 states a date of first use prior to '62, follow the procedures in (4) below to examine the claimed priority date.

(4) GW4 Filed Only. The intent of this form was to document and record groundwater use appropriated prior to '62. The priority date for groundwater claims that have a filed Declaration of Vested Groundwater Right (GW4) attached is the date of first use. A GW1, 2, or 3 used as a GW4 is acceptable.

Following are guidelines for certain situations where the use of the GW4 is inconsistent with its intent.

- The claimed priority date does not match a date on the GW4. Contact the claimant to determine the claimed intent. If the contact is inconclusive, the claimed priority date will be accepted.
- A GW4 form is attached and a '62 to '73 priority date is claimed. Three different situations may be encountered.
 - (i) If the date of first use described on the GW4 is prior to '62, the claim may be clarified to reflect the earlier date. See "Priority Dates: Examining Priority Dates: Changing Claimed Priority Dates".
 - (ii) If the date of first use described on the GW4 post-dates 12/31/61 and the claimed priority date reflects the date the GW4 was filed in the county courthouse, accept the claimed priority date and add the following remark to the department's examination report.

Example: P515 PR51A FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, WAS FILED AND SUBMITTED WITH THIS CLAIM AS A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.

- (iii) If the date of first use described on the GW4 post-dates 12/31/61, and the claimed priority date does not match the date the GW4 was filed at the county courthouse, a priority date issue exists. Contact

the claimant to discuss the issue. If the contact is inconclusive, add the following remark to the department's examination report.

Example: P516 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT APPEARS THE FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, FILED JUNE 5, 1966, WAS USED IN LIEU OF A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.

(5) GW Forms Filed After 6/30/73. Groundwater claims with a priority date between '62 and '73 that have a Notice of Completion (GW2 or GW3) filed after '73 will be examined as follows:

- GW2 or GW3 filed between '73 and '81 with a GW1 filed prior to '73 should be examined using the procedures in (2) above.
- GW2 or GW3 filed between '73 and '81 without a GW1 filed prior to '73 should be examined in accordance with "No GW Form" below.
- GW forms filed on 4/14/1981 or later are not considered proper filings and should be examined in accordance with "No GW Form" below.

b. GW Form Not Filed. For groundwater claims with a priority date between '62 and '73 where the submitted GW form does not appear to have been filed, pursue the following steps.

- Check the GW microfiche or contact the claimant to determine if the form was actually filed. If filed, add a copy of the filing date documentation to claim file. Review the priority date according to the procedures pertinent to the type of form.
- Check new appropriations records for a possible new appropriations form that may have been filed but not attached to the claim. If such a document is found, confirm with claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriations form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

If proper filing of the GW form cannot be confirmed, process the claim according to the procedures in "No GW Form" below.

c. No GW Form. Groundwater claims with a priority date between '62 and '73 will be encountered which contain no documentation, or documentation other than a GW form. First determine if proper documentation can be found.

- Check the GW microfiche to see if a GW form was filed but not attached. If a GW form is found, contact the claimant to confirm that the filing pertains to the claim. Upon confirmation by the claimant, add the GW form to the claim file and document the confirmation. Review the priority date according to procedures pertinent to the type of GW form.
- Check new appropriation records for a possible new appropriation form that may have been filed but not attached to the claim. If such a form is found, confirm with the claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriations form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

Where a properly filed GW form or new appropriations document cannot be found, the processing of the claim will depend on several variables as outlined below.

- For federal agency claims where no other problems require contact, use Exhibit VI-16 to notify them of the deficiency. Add a priority date issue remark to the department's examination report as shown in (iv) below.
- For all other claims, contact the claimant. If the claimant confirms the claimed priority date, one of five options are available to the claimant.
 - (i) Claimant submits appropriate GW documentation. Review the priority date according to procedures pertinent to the type of GW form.
 - (ii) Claimant amends the priority date to the earlier of the following two situations:
 - the date the claim was received, or
 - the date a GW2 or GW3 was filed at a courthouse between '73 and '81 without a GW1 filed prior to '73.

Add the following remark to the department's examination report.

Example: P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(2) MCA.

- (iii) Claimant withdraws claim and completes a new appropriation Form 602. No filing fee is required. See "Special Provisions: Termination Of A Claim" for instructions for withdrawing the claim.

It is advised the claimant work with the new appropriations specialist prior to withdrawing the claim, as their guidelines and standards are different. Give a copy of the claim file to the new appropriations specialist.

The priority date on the Form 602 will be the received date of the claim form, or the filing date of a GW2 or GW3 form if filed between '73 and '81, whichever is earlier.

The flow rate on the Form 602 depends on the priority date.

- If the priority date is pre-7/1/91, the flow must be less than 100 gpm.
- If the priority date is post-6/30/91, the flow rate cannot exceed 35 gpm

- (iv) The claimed priority date is retained without documentation and a new appropriations Form 602 is not pursued. Add a remark to the department's examination report denoting the lack of documentation for the claim.

Examples: P520 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM.

P525 PR51A SURFACE WATER NOTICE OF APPROPRIATION WAS SUBMITTED TO SUPPORT THIS CLAIM TO GROUNDWATER APPROPRIATED BETWEEN JANUARY 1, 1962 AND JULY 1, 1973.

P530 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER APRIL 13, 1981. SEE SECTION 85-2-306(2), MCA.

P535 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER 6/30/1973. NO NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED AS REQUIRED BY THE 1961 GROUNDWATER CODE.

P540 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS NOT FILED AT THE COURTHOUSE AS REQUIRED BY THE 1961 GROUNDWATER CODE.

- (v) The claimed priority date is retained without documentation and a new appropriation Form 602 is

filed. This option should not be encouraged as it creates duplicate rights.

A filing fee for the Form 602 is required. The priority date will be the date the form is received and the flow rate cannot exceed 35 gpm.

It is advised the claimant work with the new appropriations specialist, as their guidelines and standards are different. Give a copy of the claim file to the new appropriations specialist.

Add a copy of the Form 602 to the claim file. Also, add a remark to the department's examination report to denote the duplication.

Example: P545 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM. THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH WATER RIGHT NO. C000000-00.

5. DNRC Post-June 30, 1973 Documents Attached. This section provides guidelines for when a pre-'73 priority date has been claimed and a new appropriations document has been submitted for the same water right. Ultimately the claim or new appropriations document will be recognized, but not both.

Confirm that the claim and new appropriations document are both actually describing the same water right. This may require claimant contact. Also, confirm that processing of the document has been completed by the new appropriations section.

After it is confirmed the claim and new appropriations document describe the same water right, the processing of these documents will depend on several variables as outlined below.

a. Claimed Priority Date Is Correct. When the claimed priority date appears to be correct (i.e., the date of appropriation is prior to '73 and proper documentation was filed to establish the priority date), the claimant should be encouraged to retain the claim and terminate the redundant new appropriations document.

If the new appropriations document is to be terminated, notify the new appropriation specialist or regional manager for procedures.

If the claim and new appropriations document are both retained, add the following remark to the department's examination report.

Example: D92 DU51THIS CLAIM AND WATER RIGHT NO. C000000-00 APPEAR TO BE DUPLICATE/REDUNDANT FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Also, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. C000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This Certificate and
Claim No. W000000-00 appear to be redundant filings.

Put a copy of the flag (clearly marked "COPY") in the claim file.
Send the original to the Processing Unit in Helena, where an AS
remark will be entered and the flag put in the new appropriations
file.

b. Claimed Priority Date Is Not Correct. When the
claimed priority date appears to be incorrect, (i.e. no GW
documentation or GW not filed), the claimant can either: (i) amend
the claimed priority date or, (ii) retain the new appropriations
document; whichever of the two options would result in an earlier
priority date.

(i) Claimant amends the priority date to the earlier of
the following two situations:

- the date the claim was received, or
- the date a GW2 or GW3 was filed at a courthouse
between '73 and '81 without a GW1 filed prior to
'73.

Add the following remark to the department's
examination report.

Example: P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973
PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-
306(2) MCA.

The claimant should be encouraged to terminate the
new appropriations document. If the new
appropriations document is to be terminated, notify
the new appropriation specialist or regional manager
for procedures.

(ii) If the new appropriations document is retained, the
claimant should then be encouraged to withdraw the
claim. See "Special Provisions: Termination Of A
Claim" for instructions for withdrawing the claim.

If the claim and new appropriations document are both retained,
add a remark to the department's examination report.

Examples: P545 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE
BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961
GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM.
THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH
WATER RIGHT NO. C000000-00.

P546 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE
BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961
GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM.
THIS CLAIM IS SUPPORTED BY ACKNOWLEDGEMENT NO.
K043022-00.

**** PR51THE CLAIMED PRIORITY DATE INDICATES AN
APPROPRIATION OF WATER AFTER JUNE 30, 1973. THIS
CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH
WATER RIGHT NO. P000000-00.

Also, complete an 'Associated' flag following the same procedures
described above.

If during the review, it appears that the new appropriations
document contains errors or discrepancies, notify the new
appropriations specialist of the problems.

K. PERIOD OF USE.

The period of use is the period in a calendar year when water is used for the identified purpose. The period of use will be identified on the decree abstract by the earliest month and day to the latest month and day that water has been claimed for the claimed purpose in a calendar year.

1. Identifying The Claimed Period of Use. The claimed period of use is stored in the computer as an array of numbers (one number for each month of the year).

Array Translation

0	not used during month
1	1-4
2	5-9
3	10-14
4	15-19
5	20-24
6	25-27
7	28-31
9	used entire month

The number 9 cannot be used to start or end a period of use array. Also, a claimed period of use consisting of a single month or portion of a single month must be coded using a two digit array (see Example 3).

Examples: 001999970000

water use begins March 1-4, ends August 28-31

Decree will state March 1 - August 31

995000399999

water use begins July 10-14, ends March 20-24

Decree will state July 10 - March 24

000074000000

claimed period of use is June 1-15

Decree will state May 28 - June 19

001970001940

claimed period of use is March 3 - May 29 and
September 2 - November 15

Decree will state March 1 - May 31 and
September 1 - November 19

Check that the period of use on the claim form does not exhibit clerical errors by the claimant, and is apparently consistent with the documentation. If the claimed period of use is unclear or cannot be identified for a purpose whose guideline is not year round, contact the claimant.

Check that the claimed period of use has been properly entered into the computer. The period of use on the examination worksheet may be slightly longer than claimed due to the array translation. When the decree is issued, the computer will give the maximum dates for the period of use as established by the array of numbers.

2. Period Of Use Guidelines. This section contains values to be used as benchmarks for initiating further department review or claimant contact for the different types of purposes.

a. Irrigation.

Flood Systems And Sprinkler Systems. The guidelines for flood systems and sprinkler systems (including such systems with reservoirs) will be:

- | | | |
|-------|--------------------|--------------------------|
| (i) | Climatic Area I: | March 15 to November 19. |
| (ii) | Climatic Area II: | April 1 to October 31. |
| (iii) | Climatic Area III: | April 15 to October 19. |
| (iv) | Climatic Area IV: | April 20 to October 14. |
| (v) | Climatic Area V: | April 25 to October 9. |

If the POU is located in more than one climatic zone, use the climatic zone which has the longer period of use guidelines. If a claim is located in climatic zone 6 (mountainous area), use either the guidelines for Climatic Area V or those for the climatic zone which is adjacent to the mountainous area.

Water Spreading, Natural Overflow, And Natural Subirrigation. The period of use guideline for claims involving these system types will be year round use.

Formerly Decreed Period Of Use. When an irrigation claim is based on a decree which specifically identifies a period of use for irrigation, the decreed dates will be the guideline.

b. Domestic.

Households. The period of use guideline for household use with or without lawn and garden will be year round. If the claimed period of use is other than year round, review the claim file for information indicating seasonal use, i.e., a cabin on Flathead Lake. When seasonal use isn't indicated, contact claimant. If claimant contact is inconclusive, accept the claimed period of use.

Domestic Irrigation. The period of use guidelines for domestic irrigation with no households (i.e., lawn and garden), will be the same as the irrigation period of use guidelines. If the claimed period of use is year round or greatly exceeds the irrigation period of use guidelines, contact the claimant.

Households And Domestic Irrigation. The period of use for a claim involving both household use and domestic irrigation will be year round use. If a shorter period of use is claimed, review the documentation or the claimant may be contacted. If claimant contact is inconclusive, accept the claimed period of use.

Formerly Decreed Period Of Use. When a domestic claim is based on a decree which specifically identifies a period of use for domestic purposes, the decreed dates will be the guideline.

c. Stockwater. The period of use guideline for stockwater use is year round. Generally, the claimed period of use will be accepted as claimed. The claimant may be contacted if apparent discrepancies exist.

Formerly Decreed Period Of Use. When a stockwater claim is based on a decree which specifically identifies a period of use for stockwater purposes, the decreed dates will be the guideline.

d. Other Uses. No specific guidelines have been developed to be applied to the period of use of other uses claims. The claimed period of use will be compared to what is usual and customary for the claimed purpose. The data sources and materials used to review the purpose will be used to establish the usual and customary period of use for the claimed purpose. Also, Murphy Rights are for specific flow rates for specific times of year.

Formerly Decreed Period Of Use. When an other uses claim is based on a decree which specifically identifies a period of use for the claimed purpose, the decreed dates will be the guideline.

e. Reservoirs. The period of use guidelines for reservoirs are the guidelines for the purposes for which the water is used. For example, a reservoir for sprinkler irrigation would have the irrigation guideline appropriate for the respective climatic area. If more than one use is associated with a reservoir, the period of use guideline may differ between the individual claims to the reservoir.

Period of Diversion For Reservoir. When a specific period of diversion into a reservoir is identified, it should be added to the department's examination report. Typically, this information will be obtained from claim documentation, reliable records (e.g., BLM project files), or claimant contact (e.g., reservoir questionnaire). Use a period of use (PE) remark to add a period of diversion.

Example: P95 PE01THE PERIOD OF DIVERSION FROM THE SOURCE INTO THIS RESERVOIR IS MARCH 1 THROUGH JULY 15.

There is no need to report a period of diversion that is the same as the period of use.

3. Examining Period Of Use. The examination of the period of use will be based on the period of use on the claim form, documentation, guidelines, and claimant contact where necessary.

Generally the claimed period of use will be accepted if reasonably close to the guidelines. The rule of thumb for "reasonably close" is up to one month before and one month after the guideline.

a. Changing Claimed Period Of Use. The claimed period of use will not be changed as a result of the examination unless:

- amended by the claimant
- clarified by the department

The following are provided as guidance about when the period of use may be clarified without claimant contact.

- If no period of use has been given on the claim form or documentation for a claim which has a guideline of year round, complete the period of use on the examination worksheet as year-round.
- If no period of use has been given on the claim form but is clearly identified in the documentation, complete the period of use on the examination worksheet to correspond with the documentation.
- If only months are claimed (e.g. April-October) and the submitted documentation does not specify a day date, add the first day of the initial month and last day of the final month to the examination worksheet (e.g. April 1 - October 31).
- If the period of use given is equivalent to year-round (e.g. May 1 - April 30), change the period of use on the examination worksheet to January 1 to December 31.

Changes may be made directly on the worksheet. If the period of use is changed so that the decree abstract will differ from the claim form or amendment, place an asterisk on the worksheet in the brackets to the left of the period of use heading. The basis of a change must be documented in the claim file.

b. Claimant Contact. If the claimed period of use is not within the guideline for the claimed purpose, or the claimant's intent is unclear, contact the claimant. For example, year-round diversion of water for an outdoor swimming pool or year-round use of water for a high elevation placer mining operation would require claimant contact. If the documentation attached to the claim supports a specific period of use, this should also be discussed.

- Information discussed confirms the claimed period of use. Document the information supporting the claimed period of use.
- A period of use different from that in the claim file is substantiated. The claimed period of use may be changed on confirmation by the claimant. Thoroughly document the discussions with the claimant and the data used to substantiate the new period of use. As an alternative, an amendment can be submitted to change the claimed period of use.

- If claimant contact is inconclusive or a discrepancy is unresolved, add an issue remark to the department's examination report.

4. Period Of Use Issues. Any pertinent issues discovered during the examination may be remarked on the department's examination report using a period of use (PE) remark.

a. Period Of Use Exceeds Guidelines. When the claimed period of use differs significantly from the guideline and is not supported by the documentation, contact the claimant. If the issue is unresolved, a period of use remark will be added to the department's examination report.

Examples: P130 PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 19.

P135 PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL PERIOD OF USE FOR THE CLAIMED PURPOSE WHICH IS MARCH 15 TO NOVEMBER 19.

P140 PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. USE OF THIS WATER MAY NOT BE FEASIBLE DURING WINTER MONTHS.

b. Period Of Use Inconsistent With Documentation. If the claimed period of use differs from a period of use clearly specified in the documentation, contact the claimant. If claimant contact is inconclusive, add the following remark to the department's examination report.

Example: **** PE51THE CLAIMED PERIOD OF USE IS INCONSISTENT WITH THE CLAIMED DOCUMENTATION. CASE NO. 0000, SANDERS COUNTY, DECREES THE PERIOD OF USE AS JUNE 15 THROUGH SEPTEMBER 1.

c. Period Of Use Too Short. On occasion, periods of use are claimed that seem to be short for the claimed purpose. Claimant contact will be initiated. If claimant contact is unsuccessful, add a period of use remark.

Examples: P150 PE51THE CLAIMED PERIOD OF USE APPEARS INADEQUATE FOR THE USUAL GROWING SEASON IN THIS AREA WHICH IS APRIL 1 TO OCTOBER 31.

P151 PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. THE CLAIMED PERIOD OF USE APPEARS TO BE INADEQUATE.

d. No Period Of Use Claimed. When no period of use has been given on the claim form or documentation for a claim that has a guideline other than year round, contact the claimant. If the contact is unsuccessful at obtaining a period of use, add a period of use remark.

Example: P155 PE51NO PERIOD OF USE HAS BEEN CLAIMED. THE USUAL AND REASONABLE PERIOD OF USE IN THIS AREA IS APRIL 20 TO OCTOBER 10.

5. Unique Period Of Use Features. Any unique aspects or features of the period of use should be called to the attention of the water court by adding a remark, e.g., PE01, to the department's examination report.

a. Limited Period Of Use Agreements. Sometimes the documentation (decree, filed notice, affidavit, deed, contract, etc.) will state an unusual period of use, such as a limited use agreement for certain days, certain times, etc. In these situations the claimed period of use will still apply. Add a period of use remark stating the particulars of the limited use as an aspect of the right. The remark should be added to appear on the decree abstract (PE01) if the information was clearly indicated as claimed. If the information was identified by the department or not clearly indicated as claimed by the claimant, add it to appear on the department's examination report (PE01).

Examples: **** PE01CASE NO. 0000, FERGUS COUNTY, LIMITS THIS RIGHT TO DIVERSION FOR THREE OF EVERY TEN DAYS.

**** PE01CASE NO. 0000, LAKE COUNTY, DECREES A ROTATING SYSTEM FOR USE OF THIS RIGHT BETWEEN FIVE PARTIES. EACH PARTY IS DECREED USE OF THIS RIGHT FOR 48 HOURS OF EVERY 240 HOURS.

b. High Or Flood Water Rights. When the claim or documentation states that the right includes high or flood water of a particular source, a period of use remark will be added to the department's examination report, noting the high or flood water right as an aspect of the right. This type of right normally occurs with filed or use rights. The period of use dates will normally be accepted as claimed.

Example: P120 PE01THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF DEER CREEK.

If the documentation with the claim states that the water right is only for high or flood waters, add a period of use remark noting the limitation as an aspect of the right. This type of water right generally occurs with decreed rights. Accept the period of use dates as claimed.

Examples: P125 PE01CASE NO. 0000, LINCOLN COUNTY, LIMITS THIS RIGHT TO HIGH OR FLOOD WATERS OF MUSKRAT CREEK.

P126 PE01THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATER OF BEAVER CREEK.

VII. IRRIGATION

This chapter describes the procedures unique to the examination of irrigation claims. The following elements are discussed.

- A. Type Of Irrigation System
- B. Flow Rate
- C. Volume
- D. Place Of Use (POU)
- E. Supplemental Rights
- F. Irrigation Districts

The examination procedures for the other elements of an irrigation claim are contained in Chapter VI., Claim Examination.

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A. TYPE OF IRRIGATION SYSTEM

The type of irrigation system is the method used to distribute water across the place of use, such as flood irrigation, sprinkler irrigation, or subirrigation. The type of irrigation system will be used in determining the accuracy of the claimed flow rate and volume. It will be identified in the decree under purpose on each irrigation water right abstract.

1. Identifying The Claimed Type Of Irrigation System.

Using the information in the claim file, check the type of irrigation system identified on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed type of irrigation system is unclear, contact the claimant.

Codes. Codes were used to store the claimed type of system in the computer. When more than one irrigation type was indicated on the claim form (e.g., sprinkler/flood), the proper code was written on the claim form by department staff prior to the information being entered into the computer data base. The codes used when claims were initially input into the computer are as follows:

B	border dike
C	contour ditch
D	spreader dike
F	flood
G	ditch system of other type
H	furrow
P	parallel ditch
S	sprinkler
A	sprinkler/furrow
E	sprinkler/flood
I	furrow/flood
J	sprinkler/furrow/flood
M	multiple methods
X	other

2. Examining Type Of Irrigation System. The type of irrigation system indicated on the claim form and worksheet will be compared with various data sources to determine whether it is supported by the data sources. Check the aerial photograph for evidence of the claimed type of system. For expediency, do this in conjunction with the POU examination. Check the submitted documentation for a discussion of the irrigation method.

When the claimant's intent is unclear, the claimant must be contacted. For example, sprinkler irrigation is claimed, but the aerial photograph shows a portion of the POU being flooded. Remember the claim should accurately reflect pre-1973 practices.

The review is intended to determine whether the claimed type of irrigation was practiced before 1973, and whether all types of irrigation that appear on the data sources have been claimed.

Generally the claimed type of irrigation system will be accepted. The type of irrigation system shall be standardized on the examination worksheet to one of the following types of system types.

D	water spreading
F	flood
S	sprinkler
N	natural subirrigation
L	controlled subirrigation
O	natural overflow
E	sprinkler/flood
X	other (Use a purpose-PU-remark code to describe)

Changing Claimed Type Of Irrigation System. The claimed type of irrigation system will not be changed during the examination unless

- amended by the claimant
- clarified by the department
- standardized by the department to one of the above consistent categories

If the claimed type of irrigation system is standardized so the decree abstract will differ from the claim form or amendment, note the change by placing an asterisk on the worksheet in the brackets to the left of the purpose heading. Document the basis for the change in the claim file.

If review of the claim finds a different type of irrigation occurring than was claimed, such as flood to sprinkler or sprinkler to flood, the claimed type can only be changed by an amendment.

For claims where an incidental type of irrigation is also being claimed, add a remark to the decree abstract.

Example: P556 PU01THIS WATER RIGHT ALSO INCLUDES NATURAL SUBIRRIGATION AS AN INCIDENTAL TYPE OF IRRIGATION.

Any unique aspects or features of the type of system should be remarked.

Example: P560 PU01SUBIRRIGATION CONTROLLED BY CHECK DAM LOCATED ON DRAIN DITCH.

3. Type Of Irrigation System Issues. Any pertinent issues discovered during the examination may be identified on the department's examination report using a purpose (PU) remark.

a. No Type Of System Claimed. If no type was checked on the claim form, check the accompanying documentation for an indication of the type of system. If the documentation identifies a type, correct the worksheet accordingly.

When no type of system is indicated on the claim form or in the submitted documentation, contact the claimant.

If no type is obtained through claimant contact, try to identify the type of system from the available data sources. If the issue cannot be resolved, add a purpose (PU) remark to the department's examination report.

Example: P695 PU51NO TYPE OF IRRIGATION SYSTEM HAS BEEN CLAIMED. THE TYPE OF HISTORICAL IRRIGATION APPEARS TO HAVE BEEN A FLOOD SYSTEM.

b. Type Of Irrigation Unconfirmed. If from review of the data sources it is apparent the claimed type of irrigation system is incorrect (e.g., system claimed is present or future rather than historical), or has never been used, the claimant should be contacted. If contact is inconclusive, add a purpose remark to the department's examination report.

Examples: P697 PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. IT IS UNCLEAR IF THIS RIGHT SHOULD BE DEFINED BY FLOW RATE OR VOLUME.

P700 PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. USDA AERIAL PHOTOGRAPH NO. 999-111, DATED 08/31/78, SHOWS FLOOD IRRIGATION.

**** PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. THE 1976 USGS TOPOGRAPHIC MAP "VANDALIA" INDICATES THE EXISTENCE OF A WATER SPREADING SYSTEM.

**** PU51THE TYPE OF IRRIGATION SYSTEM CANNOT BE CONFIRMED. THE GARFIELD COUNTY WATER RESOURCES SURVEY (1959) INDICATES A FLOOD SYSTEM.

c. Priority Date Of A Sprinkler System Predates 1955. See "Claim Examination: Priority Date" for examination procedures.

B. FLOW RATE

The flow rate is the rate at which water has been appropriated from the source. The flow rate will be decreed in cubic feet per second (cfs) or gallons per minute (gpm). See "General Procedures: Standard Measurement of Water" for standard units and conversions.

1. Identifying The Claimed Flow Rate. Using the information in the claim file, check the flow rate on the claim form for clerical errors by the claimant, and for consistency with the documentation.

The flow rate units should be checked for agreement with the documentation and for correct conversion. If incorrect units have been claimed but the claim file documentation indicates the correct units, the correction can be made on the worksheet. When unsure of the intended flow rate units, contact the claimant.

For claims involving formerly decreed rights, the flow rate on the claim form and worksheet should not exceed the decreed flow rate as documented. For filed and use rights, claimed flow rates and documentation that do not match will not be considered in conflict. If what the claimant intended to claim is unclear, the claimant should be contacted.

Runoff. During the filing period, some claimants wrote "runoff" on their claim forms to describe the flow rate. Typically this was done for intermittent (non-perennial flowing) sources to describe why no specific flow rate was claimed. The term may have been added as a remark by the department during clarification as "FR01RUNOFF". This remark is no longer needed and should be deleted during examination.

Flow Rate Units Standardization. Flow rates will be converted into standard units as follows:

- less than one cfs will be automatically converted into units of gallons per minute by the computer;
- equal to or greater than one cfs will be manually standardized to units of gallons per minute or cubic feet per second to best suit the system, or the customary reference for the means of diversion, area, or claimant. No conversions will be applied by the computer.

When the units of measurement are manually changed, add a checkmark to the worksheet to alert the coders.

Flow Rate Figure Too Large for Data Base. The computer record has space allotted for flow rates up to 99,999.99 cfs. If a flow rate to be decreed is greater than the space available, write "99,999.99 cfs" on the examination worksheet and add the following remark to the decree abstract indicating the correct flow rate.

Example: F40 FR01COMPUTER RECORD CAPACITY FOR FLOW RATE FILLED.
FLOW RATE IS 186,699.00 CFS.

2. Examining Flow Rate. The claimed flow rate will be reviewed by system type, using the information in the claim file, a general flow rate guideline, and information gained through claimant contact. The flow rate area of the examination worksheet provides a comparison statistic of gallons per minute per acre (gpm/acre) claimed.

Specific procedures for reviewing flow rates are given below by system type. For claimed flow rates that will be decreed, there are two underlying considerations that should be kept in mind. First, has the claimed flow rate actually been diverted? Second, is the claimed flow rate reasonable for the specific purpose? If the answer to either question is no, further information should be pursued to determine what is reasonable and accurate. This thought process should form the basis for examining all claims.

Flow rates for claims to lawn and garden use (LG) should be examined using the domestic use guidelines.

A history and description of the development of the flow rate guideline is in the Appendix as Exhibit VII-1.

Unique Features or Aspects. Any unique aspects or features of the flow rate may also be remarked using a flow rate (FR) remark, e.g. FR01.

a. Changing Flow Rate. The claimed flow rate will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department (see part 1 above);
- to standardize units of measure (see part 1 above);
- to apply standards (see part 3 below).

When the claimed flow rate is changed so that the decree abstract will differ from the claim form or amendment, denote the change by placing an asterisk between the brackets in the left margin of the worksheet next to the change.

b. Claimant Contact. For the system types that will receive a flow rate in the decree, claimant contact may be required. In conjunction with the review criteria in this subchapter, the claimant should also be contacted whenever the claimed flow rate is unclear, has apparent discrepancies, or appears unreasonable. This contact can have several outcomes.

- Information discussed confirms the claimed flow rate. Document the information supporting the claimed flow rate.
- A flow rate different from that claimed is substantiated which the claimant wishes to have replace the claimed

data. The claim can be changed by an amendment from the claimant. Document the information used to substantiate the new data.

- If the issue is unresolved, e.g., pump data is insufficient to confirm the claimed flow rate, add a flow rate issue remark to the department's examination report.

3. Flow Rate Criteria - Decreed Rights. This section contains guidelines to be used as benchmarks for reviewing the flow rate of claims based on formally decreed rights. This section is made up of the following parts:

- a. Systems Involving Reservoirs
- b. Water Spreading Systems
- c. Subirrigation And Natural Overflow
- d. Pumps
- e. Gravity Flow Pipelines
- f. Ditches And Canals

For claims based on formally decreed rights where a flow rate has been specified, the flow rate will be decreed as claimed or amended.

When the claimed flow rate on a single claim is equal to or less than the original decree, the claimed flow rate will generally be accepted but may be reviewed further if there is an apparent error or conflicting data.

For claimed flow rates greater than 33.7 gpm/acre (3 MI/acre), the computer will add the following remark to the department's examination report.

FR51THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 62.80 GPM PER ACRE.

If the claimed flow rate is substantiated through information in the claim file or from information obtained through claimant contact, and is above the 33.7 gpm/acre guideline, add a "KEEP" flag to the worksheet which will suppress the computer generated remark. Information sufficient to support the claimed flow rate includes ditch measurements, pump information, or water commissioner records on file at the county district court. In addition, flow rates exceeding the guideline for small acreage are acceptable to a reasonable limit.

a. Systems Involving Reservoirs.

Onstream Reservoirs. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended. Since courts usually quantify reservoir rights by volume, the decreed flow rate may indicate the reservoir was constructed

after the decree. A date of construction should be pursued. See "Claim Examination: Reservoirs: Reservoir Issues".

When both the claim and original decree do not specify a flow rate, use the procedures under "Filed And Use Rights: Systems Involving Reservoirs" below.

For other variations of claimed and formally decreed flow rates involving onstream reservoirs, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

Offstream Reservoirs. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended.

To review a claimed flow rate involving an offstream reservoir which appears in error, conflicts with information in the claim file, or exceeds 17 gpm/acre, use the procedures under "Filed And Use Rights: Systems Involving Reservoirs" below.

For other variations of claimed and formally decreed flow rates involving offstream reservoirs, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

b. Water Spreading Systems. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended.

When both the claim and original decree do not specify a flow rate, use the procedures under "Filed And Use Rights: Water Spreading Systems" below.

For other variations of claimed and formally decreed flow rates, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

c. Subirrigation And Natural Overflow. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended.

When both the claim and original decree do not specify a flow rate, use the procedures under "Filed And Use Rights: Subirrigation And Natural Overflow" below.

For other variations of claimed and formally decreed flow rates, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

d. Pumps. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended. For other variations of claimed and formally decreed flow rates, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

To review a claimed flow rate involving a pump which appears in error, conflicts with pump data in the claim file (such as the pump

rate at Means of Diversion), or exceeds 17 gpm/acre, use the procedures under "Filed And Use Rights: Pumps" below.

e. Gravity Flow Pipelines. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended. For other variations of claimed and formally decreed flow rates, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

To review a claimed flow rate involving a gravity flow pipeline which appears in error, conflicts with pump data in the claim file (such as the pump rate at Means of Diversion), or exceeds 17 gpm/acre, use the procedures under "Filed And Use Rights: Gravity Flow Pipelines" below.

f. Ditches And Canals. When the claim and original decree both specify a flow rate, the flow rate will be decreed as claimed or amended. For other variations of claimed and formally decreed flow rates, see "Flow Rate Issues: Specific Decreed Flow Rate Issues".

Decreed flow rates greater than 33.7 gpm/acre involving ditches and canals will generally only have the FR51 remark shown above listed. If specific ditch capacity data are available, the claimed flow rate should be reviewed using the procedures under "Filed And Use Rights: Ditches And Canals" below.

4. Flow Rate Criteria - Filed And Use Rights. This section contains guidelines to be used as benchmarks for reviewing the flow rate of claims based on filed and use rights. This section is made up of the following parts:

- a. Systems Involving Reservoirs
- b. Water Spreading Systems
- c. Subirrigation And Natural Overflow
- d. Pumps
- e. Gravity Flow Pipelines
- f. Ditches And Canals

For filed or use rights, the flow rate guideline is 17 gpm/acre. Claimed flow rates below this guideline are generally accepted but may be reviewed further if there is an apparent error or conflicting data.

The flow rate for these claims will be reviewed according to the procedures discussed below. After the claims have been examined, the computer will compare the claimed flow rate of each claim to the 17 gpm/acre guideline. Claimed flow rates that exceed the guideline will be reduced to the guideline by the computer, unless there is a "KEEP" flag accompanying the flow rate. When the computer reduces a flow rate it will add the following remark and an asterisk to the flow rate on the decree abstract.

FR01THE FLOW RATE OF THIS WATER RIGHT HAS BEEN REDUCED TO THE 17 GPM PER ACRE GUIDELINE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION.

a. Systems Involving Reservoirs.

Onstream Reservoirs. A flow rate will not be decreed. Change the claimed flow rate to zero (0.00) and add an asterisk in the margin of the worksheet. The computer will add the following flow rate remark to the decree abstract.

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

(NOTE: This remark will not be stored in the computer.)

A flow rate will be decreed for irrigation claims which use other than stored water, such as direct flow diversions upstream from a reservoir or a small reservoir as part of a large direct flow system (e.g., 0.4 AF reservoir for 20 acres of irrigation).

One method to determine if an irrigation claim uses other than stored water from the reservoir, is to compare the claimed volume to a calculated volume based on claimed acres times the appropriate climatic area volume guideline. Using the smaller of the two volume values, compare to the capacity of the reservoir. If the volume is greater than 2 times the capacity of the reservoir, the claim could be considered primarily a direct flow irrigation system.

When determining a possible direct flow system, be aware of supplemental right relationships. A small reservoir claim as part of a large system may utilize stored water to supplement other water rights and therefore may not be a direct flow system.

Claimant contact may be necessary to understand the relationship between the reservoir, the irrigation system, the claimed volume, and claims which may be supplemental. When it is determined that storage is a minimal part of the amount used, retain the claimed flow rate and add a flow rate remark to the department's examination report.

Example: F41 FR01PRIMARILY A DIRECT FLOW SYSTEM; FLOW RATE RETAINED.

Offstream Reservoirs. The guideline for offstream reservoir irrigation claims where control of the reservoir is part of the right is the capacity of the diversion and conveyance system.

Compare the claimed flow rate to information in the claim file and other data for information identifying the capacity of the diversion and conveyance system. Information identifying the diversion or conveyance capacity should be used in completing the

reservoir worksheet and a copy placed in the file. When there is no information regarding the capacity of the diversion and conveyance system, compare the claimed flow rate to the 17 gpm/acre guideline.

If the claimed flow rate exceeds the appropriate capacity figure for the diversion and conveyance system, or the 17 gpm/acre guideline when diversion and conveyance capacity are unknown, contact the claimant. The reservoir questionnaire and cover letter (Exhibits VI-6 and IV-8) should be used. This contact can have one of several outcomes.

- Submitted reservoir data confirms claimed flow rate. Add a "KEEP" flag to the claimed flow rate on the examination worksheet if it exceeds the 17 gpm/acre guideline.
- Data about the diversion and conveyance system clearly indicates an actual flow rate less than the claimed flow rate. Pursue further contact with the claimant. When the claimed flow rate is not amended to the actual flow rate, add a "KEEP" flag to the claimed flow rate on the worksheet. Add a flow rate remark to the department's examination report.

Examples: F120 FR51THE CLAIMED FLOW RATE EXCEEDS THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM WHICH IS 1.80 CFS.

F135 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.

F145 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF 2.50 CFS.

- Reservoir data is insufficient to confirm a flow rate. Additional claimant contact may be pursued. A field investigation may be conducted. When reservoir data cannot be obtained and the claimed flow rate exceeds 17 gpm/acre, the claimed flow rate for filed and use rights will be reduced to the guideline by the computer. The claimed flow rate for decreed rights will not be reduced by the computer.

b. Water Spreading Systems. A flow rate will not be decreed for direct flow water spreading systems. Change the claimed flow rate to zero (0.00) and place an asterisk in the margin of the worksheet. The computer will add the following flow rate remark to the decree abstract.

NO RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

(NOTE: This remark will not be stored in the computer.)

Water Spreading Systems Involving Reservoirs. See "Systems Involving Reservoirs" above.

Water Spreading Systems Involving Pumps. In these situations a flow rate will be decreed. See "Pumps" below for examination procedures.

c. Subirrigation And Natural Overflow.

Natural Subirrigation. A flow rate will not be decreed. Change the claimed flow rate to zero (0.00) and place an asterisk in the margin of the worksheet. The computer will add the following flow rate remark to the decree abstract.

NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL SUBIRRIGATION.

(NOTE: This remark will not be stored in the computer.)

Controlled Subirrigation. Where subirrigation is controlled by systems such as drain ditches equipped with check dams, a flow rate will be decreed. In reviewing such systems, use the appropriate criteria for the means of control, e.g., ditches or pumps.

Natural Overflow. A flow rate will not be decreed. Change the claimed flow rate to zero (0.00) and place an asterisk in the margin of the worksheet. The computer will add the following flow rate remark to the decree abstract.

NO FLOW RATE HAS BEEN DECREED FOR THIS NATURAL OVERFLOW METHOD OF IRRIGATION.

(NOTE: This remark will not be stored in the computer.)

d. Pumps. The output (flow rate) of a pump is limited primarily by the horsepower of the driving unit, vertical lift, operating pressure, and friction.

If the claim file contains sufficient pump data, Exhibit VII-2 can be used to check the accuracy of a claimed flow rate. Remember that the flow rates in this exhibit are estimates based on generalized assumptions.

When a claimed flow rate appears in error, conflicts with pump data in the claim file (such as the pump rate at Means of Diversion), or exceeds the 17 gpm per acre guideline, and there is insufficient information in the claim file to substantiate the claimed flow rate, a "Request for Pump Information" questionnaire (Exhibit VII-3) should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire along with a cover letter (Exhibit IV-8) to the claimant. This contact can have one of several outcomes.

- Pump data confirms the claimed flow rate. Place a "KEEP" flag on the claimed flow rate if it exceeds the 17 gpm/acre guideline.

- Data about the pump clearly indicates an actual pumping rate less than the claimed flow rate. Pursue further contact with the claimant. When the claimed flow rate is not amended to the actual pumping rate, the two most likely outcomes are:

(i) If the claimed flow rate is less than 17 gpm/acre, add a flow rate remark to the department's examination report.

Example: F150 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE PUMP CAPACITY. AVAILABLE DATA SUPPORT A FLOW RATE OF 98.50 GPM.

(ii) If the claimed flow rate is greater than 17 gpm/acre, add a "KEEP" flag to the flow rate on the worksheet and add a flow rate remark (shown above) to the department's examination report.

- No documentation is submitted or submitted pump data is insufficient to confirm a flow rate. Additional claimant contact may be pursued. A field investigation may be conducted. When pump data cannot be obtained and the claimed flow rate exceeds 17 gpm/acre, the claimed flow rate for filed and use rights will be reduced to the guideline by the computer.

The claimed flow rate for decreed rights will not be reduced by the computer. If the flow rate is greater than 33.7 gpm/acre (3 MI/acre), the computer will add a remark to the department's examination report.

e. Gravity Flow Pipelines. The output (flow rate) of a gravity flow pipeline system is limited primarily by pipe type, pipe length, pipe diameter, vertical drop, and friction.

Charts in Exhibit VII-4 can be used to check the claimed flow rate of these systems. The pipe diameter, pipe length, and vertical drop must be known. Assuming these three variables can be determined, the estimated flow rate from the charts can be compared to the claimed flow rate. The flow rates estimated in the charts assume PVC (plastic) pipe is used. If the claimant uses aluminum, concrete, or steel pipe, the estimates in the chart will be a bit high, but should still be used. If data sources are available which are clear, accurate and of sufficient scale, an estimated pipe output can be calculated. Be aware that it is easy to be incorrect using this check.

- Pipe length can sometimes be estimated from the claimant's map.
- Contour lines on a topographic map can be used to estimate vertical drop.

- Pipe diameter must be known from the claim file or claimant contact.

When the claimed flow rate for the gravity flow pipeline system appears in error, conflicts with pipeline data in the claim file, or exceeds the 17 gpm/acre guideline, and there is insufficient information in the claim file to substantiate the claimed flow rate, a "Request for Gravity Flow Pipeline Information" questionnaire (Exhibit VII-5) should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire along with a cover letter (Exhibit IV-8) to the claimant. This contact can have one of several outcomes.

- Submitted pipeline data confirms claimed flow rate. Place a "KEEP" flag on the claimed flow rate if it exceeds the 17 gpm/acre guideline.
- Data about the pipeline clearly indicates an actual flow rate less than the claimed flow rate. Pursue further contact with the claimant. When the claimed flow rate is not amended to the actual pipe output, the two most likely outcomes are:
 - (i) If the claimed flow rate is less than 17 gpm/acre, add a flow rate remark to the department's examination report.

Example: **** FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE GRAVITY FLOW DELIVERY SYSTEM. THE ACTUAL FLOW RATE APPEARS TO BE 88.50 GPM.

- (ii) If the claimed flow rate is greater than 17 gpm/acre, add a "KEEP" flag to the flow rate on the worksheet, and add a flow rate remark (shown above) to the department's examination report.
- No documentation is submitted or submitted pipeline data is insufficient to confirm a flow rate. Additional claimant contact may be pursued. A field investigation may be conducted. When pipeline data cannot be obtained and the claimed flow rate exceeds 17 gpm/acre, the claimed flow rate for filed and use rights will be reduced to the guideline by the computer.

The claimed flow rate for decreed rights will not be reduced by the computer. If the flow rate is greater than 33.7 gpm/acre (3 MI/acre), the computer will add a remark to the department's examination report.

f. Ditches And Canals. A ditch or canal cannot flow at a rate greater than its "design rate." A properly designed ditch or canal should provide

- velocity of flow causing neither erosion nor sedimentation

- sufficient capacity to carry the design flow
- proper hydraulic gradient or slope
- stable side slopes
- minimum initial cost and maintenance

When a claimed flow rate based on a filed or use right for a ditch or canal exceeds the 17 gpm/acre guideline, it will be reduced by the computer to the guideline. A claimed flow rate exceeding the guideline may be retained by adding a "KEEP" flag to the worksheet if information supporting an actual flow rate is obtained from the claim file, claimant contact, or other data sources such as:

- records submitted with the claim
- ditch commissioner records
- WRS data
- state project records
- Bureau of Reclamation records

Normally, the claimant will not be contacted when a claimed flow rate exceeds the guideline. The claimant may be contacted, however, if an apparent error exists, or data defining the ditch capacity are available.

When data clearly indicates a ditch capacity less than the flow rate claimed, pursue further contact with the claimant. When the claimed flow rate is not amended to the actual flow rate, one of the following two steps should be followed.

- (i) If the claimed ditch capacity is less than 17 gpm/acre, add a flow rate remark to the department's examination report.

Example: **** FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE DITCH CAPACITY. AVAILABLE DATA SUGGEST THE DITCH CAPACITY IS 2.75 CFS.

- (ii) If the claimed ditch capacity is greater than 17 gpm/acre add a "KEEP" flag to the claimed flow rate on the worksheet, and add a flow rate remark (shown above) to the department's examination report.

5. Flow Rate Issues. Any pertinent unresolved issues remaining after the examination should be remarked on the department's examination report using a flow rate (FR) remark.

a. Specific Decreed Flow Rate Issues.

Claimed Flow Rate Greater Than Original Decree. If the claimed flow rate on a single claim is greater than the original decreed flow rate, or an apparent error exists, contact the claimant. An implied claim may be involved if the claimant uses the difference between the claimed and decreed flow rates. If the issue is unresolved, add a flow rate remark to the department's examination report.

Example: F90 FR51THE CLAIMED FLOW RATE EXCEEDS THE 150 MINER'S INCHES OF CROOKED CREEK DECREEED IN CASE NO. 0000, TETON COUNTY.

Flow Rate Claimed - No Flow Rate In Original Decree. When a claim specifies a flow rate and the original decree does not, accept the claimed flow rate and add the following remark. This may be a situation where the decree addressed certain elements of the water right other than the flow rate.

Example: F91 FR51CASE NO. 9999, MADISON COUNTY, DOES NOT SPECIFY A FLOW RATE; CLAIMED FLOW RATE RETAINED.

No Flow Rate Claimed - Flow Rate In Original Decree. When no flow rate is indicated on the claim form but the original decree does specify a flow rate, contact the claimant. If a flow rate is not provided, make sure the flow rate on the worksheet is zero (0.00) and add the following remark to the department's examination report.

Example: **** FR51CASE NO. 0000, GALLATIN COUNTY, DECREES A FLOW OF 150 MINER'S INCHES; NO FLOW RATE WAS CLAIMED.

No Flow Rate Claimed - No Flow Rate In Original Decree. For onstream reservoirs, direct flow water spreading, natural subirrigation, and natural overflow, accept the claim as submitted. No issue remark or claimant contact is necessary. Check that zero (0.00) appears in the flow rate field on the worksheet.

For flood or sprinkler systems, offstream reservoirs, pumped water spreading systems, and controlled subirrigation, make sure the flow rate on the worksheet is zero (0.00) and add the following remark to the department's examination report.

Example: F93 FR51CASE NO 9999, RAVALLI COUNTY, DOES NOT SPECIFY A FLOW RATE; NO FLOW RATE HAS BEEN CLAIMED.

Flow Rate Decreed At POU. When a claim or documentation states the flow rate was formerly decreed as measured at the POU, add a flow rate remark to the department's examination report.

Example: F95 FR51CASE NO. 0000, BLAINE COUNTY, DECREES THE FLOW RATE AS MEASURED AT THE PLACE OF USE. THE FLOW RATE AT THE POINT OF DIVERSION IS UNKNOWN.

Flow Rate To POU Ratio Low. A claim based on a formerly decreed right having a low claimed flow rate to acre ratio and not involved in a supplemental relationship may be evidence of an expanded or incrementally developed POU.

If the decree is not specific as to flow rate standard or acres, the following remark may be added to claims when acreage issue (PL) remarks are involved. The remark in this circumstance is

useful because it provides an additional indication of incremental development.

Example: F110 FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT.

If the historical decree specifically states a standard or the acres involved, and the claimed flow rate is less than 4 gpm/acre, add the following flow rate remark to the department's examination report.

Examples: **** FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT. CASE NO. 0000, GRANITE COUNTY, SPECIFICALLY DECREES A FLOW RATE OF ONE MINER'S INCH PER ACRE.

**** FR51THE LOW FLOW RATE TO ACRES RATIO FOR THIS CLAIM, 2.30 GPM/ACRE, MAY INDICATE AN EXPANSION OF THE HISTORICAL RIGHT. CASE NO. 9999, RAVALLI COUNTY, SPECIFICALLY DECREES 90.00 ACRES TO THIS RIGHT.

b. Claimed Flow Rate Not Numerically Quantified.

Where a flow rate is to be decreed and the claim states the flow rate as "All" or a portion of "All" (e.g., " $\frac{1}{2}$ of ALL"), the following procedures apply.

- For formerly decreed rights, check that the flow rate is expressed as "0.00 KEEP" and add a flow rate remark to the decree abstract to identify the claimed flow rate.

Examples: F45 FR01ENTIRE FLOW OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

F50 FR01THIS RIGHT IS FOR ONE FOURTH THE FLOW OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.

For filed and use rights where a flow rate is to be decreed, contact the claimant. If an amendment is not submitted, check that the flow rate is expressed as "0.00 KEEP". Add a flow rate remark to the decree abstract.

Example: F56 FR01ENTIRE/ONE FOURTH THE FLOW OF CLEAR CREEK.

AND

- Add a flow rate issue remark to the department's examination report.

Example: F170 FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED.

Where a flow rate is to be decreed and a flow rate value has not been identified for multiple claims based on the same historic water right filed by the same claimant, add the following remark to the department's examination report for each claim involved. This remark is in lieu of the FR51 issue remark referenced above.

Example: **** FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED. THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE ALL BASED ON THE SAME HISTORIC WATER RIGHT. W000000-00, W000000-00.

c. Undivided Interest. An undivided interest is where two or more water users have an interest in a whole unsegregated water right. The undivided interest is generally established in a deed. In an undivided interest, a water right is shared among the users in alternating or rotating use that allows each user to divert the full flow rate during their turn.

When an undivided interest is identified by the claimant on the claim form or documentation, or during examination, add a flow rate remark to the decree abstract showing the respective proportional interests.

Examples: F65 FR01UNDIVIDED 1/3 INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM.

F75 FR01CASE NO. 9999, BROADWATER COUNTY DECREES THIS RIGHT AS AN UNDIVIDED 1/3 INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM.

As a rotation of the water use will be occurring, all parties sharing the water right must be identified in a flow rate remark. The remark should be added to each claim listed in the remark. One method of identifying these claims is to wait until all claims in the basin have been examined and coded, and then review an index of the FR01 remarks.

Examples: F60 FR01THE WATER RIGHTS FOLLOWING THIS STATEMENT HAVE AN UNDIVIDED INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM. W000000-00, W999999-00, W888888-00.

F76 FR01THE WATER RIGHTS FOLLOWING THIS STATEMENT HAVE AN UNDIVIDED INTEREST IN A SINGLE WATER RIGHT FOR 2.50 CFS/GPM AS DECREED IN CASE NO. 6767, BROADWATER COUNTY. W000001-00, W000002-00, W000003-00.

When all the parties in the undivided interest relationship have been identified and the combined undivided portions exceeds 1 or 100%, add the following issue remark to each claim in the undivided interest relationship.

Example: F176 FR51THE UNDIVIDED INTEREST PORTION OF THIS CLAIM MAY BE INCORRECT. THE SUM OF THE PORTIONS FOR THE CLAIMS IN THIS UNDIVIDED INTEREST EQUALS 143 %.

If all parties sharing the water right cannot be identified and the combined undivided portions are less than 1 or 100%, add the following issue remark to each claim in the undivided interest relationship.

Example: F175 FR51THE FLOW RATE MAY BE INCORRECT. ALL PARTIES IN THIS UNDIVIDED FLOW RATE INTEREST GROUP CANNOT BE IDENTIFIED. THE SUM OF THE UNDIVIDED INTEREST PORTIONS EQUALS 80 %.

An undivided interest allows each user the full flow rate on a rotating basis. Therefore, the claimed flow rates of the claims in the undivided interest relationship should be identical. If the claimed flow rates are not the same, add a flow rate remark to each claim in the undivided interest relationship.

Example: F177 FR51THE FLOW RATE OF THIS CLAIM MAY BE INCORRECT. THE PARTIES IN THIS UNDIVIDED INTEREST GROUP HAVE CLAIMED DIFFERENT FLOW RATES.

d. Maximum Acres Issue May Affect Flow Rate. If a maximum acreage issue is identified when reviewing the place of use element and a flow rate is to be decreed, add the following flow rate remark to the department's examination report.

Example: F180 FR51FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

This remark should only be added when there is no KEEP flag on the flow rate and it is determined the gpm/verified acres (using the lowest data source figure) exceeds the guideline. If, for example, the claim indicates a flow rate of 100 gpm, and the lowest number of verified acres equals 20 (5 gpm/ac), this remark is not needed.

e. Flow Rate Inadequate. Claimed flow rates that are below the guidelines will generally be accepted. In addition, a low flow rate on a claim in a supplemental relationship will generally be accepted. If, however, the claimed flow rate appears to be in error or inadequate, and is below 4 gpm/acre, the claimant may be contacted. If the issue is unresolved, add the following flow rate remark to the department's report:

Example: F185 FR51THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

f. No Flow Rate Claimed. This section does not apply to formally decreed flow rates, see "Specific Flow Rate Review Criteria: Decreed Rights".

Onstream Reservoirs, Direct Flow Water Spreading, Natural Subirrigation, And Natural Overflow. Accept the claim as submitted. No issue remark or claimant contact is necessary. Check that zero (0.00) appears in the flow rate field on the worksheet.

Flood Or Sprinkler Systems, Offstream Reservoirs, Pumped Water Spreading Systems, And Controlled Subirrigation. When no flow rate is indicated on the claim form or in the documentation, contact the claimant. If necessary, a field investigation may be conducted.

If a flow rate is not provided, make sure the flow rate on the worksheet is zero (0.00) and add a "KEEP" flag. Add the following remark to the department's examination report.

Example: F190 FR51NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

6. Recording Documentation. After a claim has been examined, the flow rate of formerly decreed rights will be recorded. No record of documentation for 62-73 groundwater developments, filed appropriations, or use rights will be maintained.

The purpose for maintaining a record of formerly decreed rights is to check that a formerly decreed right for a certain flow rate and priority date is not exceeded by claims against that right.

a. Recording. All irrigation claims that will be decreed a flow rate and are based on a formerly decreed right will be recorded. When recording the proof of use submitted with a claim in an index, the following information will be recorded:

- use code (i.e., IR, FW, CM,...)
- claim number
- claimed flow rate
- claimant

Exhibit VII-6 is an example of how documentation is to be recorded.

b. Decreed Rights Exceeded. After all the claims for a basin or subbasin have been examined, review the decree index. Identify any group of claims where the total claimed flow rate for the group exceeds the formerly decreed flow rate for that water right. Determine if one or more parties are involved.

- When only one party is involved, a total flow rate for several claims that is greater than the original decreed flow rate may be a multiple use of the right. See "Claim Examination: Purpose: Multiple Use". If not multiple use, then the formerly decreed right has been exceeded.
- When two or more parties are involved and the sum of the flow rates claimed by the parties is greater than the original decreed flow rate, the formerly decreed right has been exceeded.

Where a formerly decreed right has been exceeded, contact the parties separately. This contact may be by telephone or letter. Exhibit VII-7 is an example decree exceeded notification letter. This contact is only done as notification, not to initiate a

resolution process. In addition to notification, add a decree exceeded (DE) remark to the department's examination report.

Example: D5 DE51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT
ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT.
THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 150
MINER'S INCHES DECREED IN CASE NO. 9999, RAVALLI
COUNTY. W000000-00, W000000-00, W000000-00.

If the parties resolve the decree exceeded issue among themselves prior to the publication of the department's summary report, and submit amendments for the percentages to which they are entitled, remove the DE remarks.

When a single claim exceeds the original decreed flow rate, the above decree exceeded remark is not necessary. See "Flow Rate: Specific Flow Rate Review Criteria: Decreed Rights" for examination procedures.

C. VOLUME

Irrigation volume is the amount of water which has been diverted, impounded, or withdrawn from the source over the year for irrigation, and is measured in acre-feet (AF). The volume of water needed for irrigation is influenced by several factors, including crop, soil type, irrigation systems, seasonal weather, and climatic area.

Most water rights for irrigation will not be decreed a volume. The types of irrigation rights that will receive a volume are:

- rights previously decreed by volume
- water spreading systems
- systems involving reservoirs

1. Identifying The Claimed Volume. When applicable, use the information in the claim file to check that the volume on the claim form does not exhibit clerical errors by the claimant, and is apparently consistent with the documentation. If the claimed volume is unclear, the claimant may be contacted. Only initiate claimant contact if a volume is to be decreed. See "Specific Volume Review Criteria".

The volume units of measurement should be checked for agreement with the documentation, and for correct conversions.

Volume Units Standardization. Irrigation volumes that will be decreed must be expressed in acre-feet. Any such volumes not expressed in acre-feet should be converted manually and corrected on the worksheet. Add a checkmark to the worksheet to alert the coders to the change in units of measurement.

Make all conversions using the following equivalencies:

- One (1) acre-foot equals 325,851 gallons.
- One (1) acre-foot equals 12 acre-inches.

If a volume that will be decreed is in units that cannot be converted using the above formulas (e.g., "6 applications per season"), contact the claimant.

Volume Figure Too Large For Data Base. The computer record has space allotted for volumes up to 99,999.99 acre-feet. If a volume to be decreed is greater than the space available, write "99,999.99" acre-feet on the examination worksheet and add the following remark to the decree abstract indicating the correct volume.

Example: **** VM01COMPUTER RECORD CAPACITY FOR VOLUME FILLED.
CLAIMED VOLUME IS 1,600,000.00 ACRE FEET.

2. Examining Volume. For the types of irrigation rights to be decreed a volume, examine the claimed volume using the information in the claim file, information gained through claimant

contact, and the guidelines. The guidelines for specific system types are given below in "Specific Volume Review Criteria". The guidelines are based on alfalfa as the crop, a drought year growing season, system type, and climatic area.

Volumes for claims to lawn and garden use (LG) should be examined using the domestic use guidelines.

Unique Aspects Or Features. Any unique features or aspects of the volume may be denoted on the department's examination report by a volume (VM) remark, e.g. VM01.

Example: **** VM01 CASE NO. 0000, TETON COUNTY, DECREES ONE-THIRD INTEREST OF THE CEDAR LAKE STORAGE RIGHT.

a. Changing Volumes. The claimed volume will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department (see section 1. above);
- to standardize units of measure (see section 1. above);
- to apply standards (see section 3. below).

When the claimed volume is changed so that the decree abstract will differ from the claim form or amendment, a notation of the change will be made by placing an asterisk in the left margin of the worksheet opposite the change.

b. Claimant Contact. For the system types that will receive a volume in the decree, claimant contact may be required. In conjunction with the review criteria in this subchapter, the claimant should also be contacted whenever the claimed volume is unclear, has apparent discrepancies, or appears unreasonable. This contact can have several outcomes.

- Information discussed confirms the claimed volume. Document the information supporting the claimed volume.
- A volume different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claim can be changed by amendment from the claimant. Document the information used to substantiate the new data.
- If the issue is unresolved, or data support an actual volume different from the one claimed, add a volume issue remark to the department's examination report.

c. Climatic Areas. A climatic area code will be stored in the computer data base for every irrigation claim. Use the 1986 climatic area map to identify the climatic area codes when examining claims. A number code has been given to each of six climatic areas. The lower the number code, the higher the

consumptive use of a crop grown in that climatic area. Reviewing the climatic area includes the following steps.

- Assign a climatic area code to each claim based on the POU location.
- Locate the POU on the 1986 map and determine the climatic area code corresponding to that location. If the POU is located in more than one climatic zone, use the climatic zone which has the larger consumptive use. If a claim is located in climatic zone 6 (mountainous area), assign either Climatic Area V or the climatic zone which is adjacent to the mountainous area.
- Complete or change the climatic area code directly on the worksheet. Place a check in the margin of the worksheet whenever the climatic area code is completed or changed to alert the coders. No asterisk is needed.

The climatic area is used in examining irrigation claims to determine volume and period of use guidelines. The climatic area code will be printed under volume on the decree abstract of each irrigation claim.

Climatic area codes were assigned to some irrigation claims as claims were being clarified for entry into the computer record system. These codes were based on the 1973 SCS Irrigation Climatic Area Map of Montana (from the SCS Montana Irrigation Guide, 1974). The 1973 SCS map has been replaced by a 1986 update. The two maps look similar, but there are many differences. Use the 1986 map to check climatic area codes when examining claims.

d. Feasibility Check. Claims that will be decreed both a flow rate and a total annual volume should be checked for feasibility. Comparison statistics under volume on the examination worksheet list the maximum volume possible if water were diverted at the claimed flow rate throughout the claimed period of use (year round use equals 366 days). Compare this figure to the claimed volume. When the claimed flow rate or period of use has been amended recalculate the maximum feasible volume figure using the following equations.

- For cfs: $\text{Feasible V} = Q \times \text{days used} \times 1.9834711$
- For gpm: $\text{Feasible V} = (Q \times \text{days used}) / 226.28542$

Contact the claimant when the claimed volume exceeds the maximum feasible volume. Flow rate, volume, and period of use should be discussed with the claimant in order to determine which is in error.

When claimant contact does not resolve the problem, the computer will add a volume remark to the department's examination report.

VM51THE CLAIMED VOLUME EXCEEDS MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

3. Specific Volume Review Criteria. This section contains the criteria to be used as benchmarks for conducting department review and claimant contact. Separate subsections address the various specific guidelines, which differ depending upon the claimed type of irrigation system and type of historical right.

Claimed volumes below the guidelines are generally accepted, but may be reviewed further if there is an apparent error or conflicting data.

a. Direct Flow Systems. This section does not apply to formerly decreed volumes (see "Formerly Decreed Volumes" below). A volume will not be decreed for direct flow irrigation rights. Direct flow irrigation includes flood and sprinkler systems, subirrigation, and natural overflow. It does not include systems using stored water from reservoirs or water spreading systems. Cross out the claimed volume and write "0.00" next to the crossed out volume. Add an asterisk between the brackets to the left of the volume heading on the examination worksheet. The computer will print (but not store) the following remark on the decree abstract.

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

b. Water Spreading Systems. This section does not apply to formerly decreed volumes (see "Formerly Decreed Volumes" below). A volume will be decreed for these system types. The volume guidelines by climatic area for water spreading systems are as follows.

<u>Climatic Area</u>	<u>AF/AC/YR Guidelines</u>
I	2.3 AF/AC
II	2.0 AF/AC
III	1.9 AF/AC
IV	1.7 AF/AC
V	1.4 AF/AC

These values were used previously as volume guidelines for irrigation systems. A history and description of their development is in the Appendix as Exhibit VII-8.

When a claimed volume based on a filed or use right for a water spreading system (irrigation type code "D") exceeds the guideline for the respective climatic area, it will be reduced to the guideline by computer, unless there is a "KEEP" flag accompanying the volume. When the computer reduces a volume, it will add the following remark (containing the appropriate guideline value) and an asterisk to the volume on the decree abstract.

VM01THE VOLUME OF THIS WATER RIGHT HAS BEEN REDUCED TO THE 1.9
ACRE-FEET PER ACRE GUIDELINE FOR WATERSPREADING. THE VOLUME
MAY BE CONTESTED BY PROPER OBJECTION.

Claims formerly decreed by volume will not have the claimed volume reduced by the computer. See "Formerly Decreed Volume" below.

A claimed volume exceeding the guideline may be retained by adding a "KEEP" flag to the worksheet if information supporting an actual volume is obtained from the claim file, claimant contact, or other data sources such as:

- records submitted with the claim
- ditch commissioner records
- WRS data
- state project records
- Bureau of Reclamation records

Normally the claimant will not be contacted when a claimed volume simply exceeds the guideline. The claimant may be contacted, however, if an apparent error exists, or data defining the volume are available.

c. Systems Involving Reservoirs. This section does not apply to formerly decreed volumes (see "Formerly Decreed Volumes" below). The claimed volume will be decreed for irrigation systems involving reservoirs where control of the reservoir is part of the right. When the claimed volume is greater than 15 AF, data will be collected and added according to the procedures in "Claim Examination: Reservoirs."

The volume guidelines by climatic area for systems involving reservoirs are as follows:

<u>Climatic Area</u>	<u>AF/AC/YR Guidelines</u>
I	11.4
II	10.2
III	9.4
IV	8.5
V	7.2

These values were used previously as volume guidelines for direct flood irrigation systems. A history and description of their development is in the Appendix as Exhibit VII-8.

When the claimed volume is 15 AF or less, it will generally be accepted and a comment should be added to the worksheet noting the volume was not examined. When the claimed volume is greater than 15 AF and exceeds the above values, or is greater than 2 times the capacity of the reservoir, add issue remark(s) to the department's examination report.

A volume will not be decreed for irrigation claims which use other than stored water, such as direct flow diversions upstream from a reservoir or a small reservoir as part of a large direct flow system (e.g., 0.4 AF reservoir for 20 acres of irrigation).

One method to determine if an irrigation claim uses other than stored water from the reservoir, is to compare the claimed volume to a calculated volume based on claimed acres times the appropriate climatic area volume guideline. Using the smaller of the two volume values, compare to the capacity of the reservoir. If the volume is greater than 2 times the capacity of the reservoir, the claim could be considered primarily a direct flow irrigation system.

When determining a possible direct flow system, be aware of supplemental right relationships. A small reservoir claim as part of a large system may utilize stored water to supplement other water rights and therefore may not be a direct flow system.

Claimant contact may be necessary to understand the relationship between the reservoir, the irrigation system, and the claimed volume. When it is determined that storage is a minimal part of the total volume used, cross out the claimed volume and write "0.00" next to the crossed out volume. Add an asterisk between the brackets to the left of the volume heading on the examination worksheet, and add a volume remark to the department's examination report.

Example: V9 VM01PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

Retain the reservoir record. The computer will print (but not store) the following remark on the decree abstract.

THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORIC AND BENEFICIAL USE.

d. Formerly Decreed Volumes. In some pre-SB76 cases, water rights have been decreed a volume. A claim filed for a formerly decreed volume must have the claimed volume retained to appear on the decree abstract. Add a volume remark to the decree abstract.

Example: V10 VM01THIS VOLUME WAS PREVIOUSLY DECREED IN CASE NO. 0000, MEAGHER COUNTY.

Compare the claimed volume to the volume decreed in the submitted documentation. If the claimed amount exceeds the formerly decreed amount, contact the claimant. An implied claim may be involved if the claimant uses the difference between the claimed and decreed amounts. If the issue is unresolved, add the following volume issue remark to the department's examination report.

Example: V30 VM51THE CLAIMED VOLUME EXCEEDS THE 1,750 ACRE-FEET
DECREED IN CASE NO. 9999, PONDERA COUNTY.

Record the volumes that are based on formerly decreed water rights in the manner prescribed in "Irrigation: Flow Rate: Recording Documentation." When a historically decreed right is found to be exceeded by the combined volume of claims based on that right, add to the department's examination report a decree exceeded (DE) remark modified to refer to volume and acre-feet.

Compare claimed volume to the following table. When the claimed volume exceeds the values, add an issue remark to the department's examination report.

<u>Climatic Area</u>	<u>Systems With Reservoirs AF/AC</u>	<u>Flood Systems Without Pumps AF/AC</u>	<u>Sprinkler and Pumped Systems Af/AC</u>	<u>Water Spreading Systems AF/AC</u>
I	11.4	5.7	3.8	2.3
II	10.2	5.3	3.5	2.0
III	9.4	5.0	3.3	1.9
IV	8.5	4.6	3.1	1.7
V	7.2	4.4	3.0	1.4

These values were used previously as volume guidelines for all irrigation systems. A history and description of their development is in the Appendix as Exhibit VII-8.

4. Volume Issues. Any pertinent issues discovered during the examination should be remarked on the department's examination report using a volume remark.

a. Volume Excessive. When a claimed volume that will be decreed appears excessive for the circumstances of the claim (diversion and conveyance, POU, climatic area) and contact has not resolved the issue, add a remark to the department's examination report.

Examples: V35 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 17.80 ACRE-FEET PER ACRE.

V40 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 2.9 TIMES THE CAPACITY OF THE RESERVOIR.

b. Volume Inadequate. When a claimed volume that will be decreed appears exceptionally low, generally below 0.5 AF/AC, the claimant should be contacted. If the claimant cannot be reached or the issue is unresolved, add the following volume remark to the department's examination report.

Example: V45 VM51THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

c. No Volume Claimed. When no volume has been claimed for a water spreading system, a system involving a reservoir, or a formerly decreed volume, contact the claimant. If an amendment identifying a volume is not submitted, check that the volume on the worksheet is expressed as "0.00", and place a "KEEP" flag next to it. Add a volume remark to the department's examination report.

Example: V50 VM51NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS AREA IS 2.00 ACRE-FEET PER ACRE.

For direct flow systems where a volume will not be decreed, accept the claim as submitted. No issue remark or claimant contact is necessary. Check that zero "0.00" appears in the volume field on the worksheet.

d. Maximum Acres Issue May Affect Volume. If a maximum acreage issue was identified when reviewing the place of use element and a volume is to be decreed, add the following volume remark to the department's examination report.

Example: V55 VM51VOLUME MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

This remark should only be added when it is determined the volume/verified acres (using the lowest data source figure) exceeds the guideline. For example, if a claim which involves a reservoir indicates a volume of 100 acre-feet (Climatic Area 3), and the lowest number of verified acres equals 20 (5 acre-feet/ac), this remark is not needed.

e. Claimed Volume Not Numerically Quantified. When a claimed volume for a water spreading system, systems involving a reservoir, or a formerly decreed volume states "All" or a portion of "All" (e.g., " $\frac{1}{2}$ of ALL"), the following procedures apply.

- For formerly decreed rights, check that the volume is expressed at "0.00 KEEP" and add a volume remark to the decree abstract to identify the claimed volume.

Examples: V11 VM01ENTIRE VOLUME OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

V12 VM01THIS RIGHT IS FOR ONE FOURTH THE VOLUME OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.

For filed and use rights where a volume is to be decreed, contact the claimant. If an amendment is not submitted, check that the volume is expressed as "0.00 KEEP" and add a volume remark to the decree abstract.

Example: V13 VM01ENTIRE/ONE FOURTH THE VOLUME OF CLEAR CREEK.

AND

- Add a volume issue remark to the department's examination report.

Example: V96 VM51THE VOLUME HAS NOT BEEN EXAMINED AS NO QUANTIFIED VOLUME WAS CLAIMED.

D. PLACE OF USE (POU)

An irrigation place of use (POU) is the land to which water is applied. The POU is defined by a legal land description and an acreage figure. The size of the POU relates closely to the amount of water claimed for an irrigation water right. As a result, the examination of the POU is a very important part of the overall analysis of an irrigation claim.

The claimant was supposed to support the POU on the claim by submitting a map of the POD, conveyance, and POU (§85-2-224(2) MCA).

The review of the claimed POU for an irrigation claim has two phases. First, identify the claimed POU and, when necessary, clarify it to make it clear and consistent with the claim file. Second, examine the claimed information for consistency with outside data sources. Both phases may require claimant contact. Generally, if the first phase requires contact, pursue the second phase for a better understanding of the claim prior to contact.

1. Identifying The Claimed Place Of Use. Using just the information in the claim file, check the acreage and location of the claimed POU. The POU on the claim form and the claimant's map should agree.

If the claimant's map is unclear, for example the POU is not outlined, contact the claimant. If contact does not resolve the issue, add the following remark to the department's examination report.

Example: P305 PL51THE CLAIMED PLACE OF USE AND ACRES IRRIGATED
COULD NOT BE IDENTIFIED FROM DATA SUBMITTED WITH THE
CLAIM.

Acreage. On the worksheet, compare the maximum acres figure with the sum of the individual claimed parcels for agreement. The maximum acres figure is the total keypunched directly from the claim form whereas the sum of the individual claimed parcels is a computer generated total. When a difference between the maximum acres and total parcel acres exist, check the arithmetic, claimant's map, and aerial photograph.

Legal Land Description. Compare the claimed parcel land descriptions to the claimant's map. The map and claimed parcels should agree. Many water right claimants were not familiar with legal land descriptions. One result of this lack of familiarity is a large number of inaccurate and/or overly general descriptions of claimed places of use.

The data base allows for the addition of a fourth $\frac{1}{4}$ section breakdown to a legal land description. This should only be done when the claimant's map or the data sources are extremely precise, or the claim indicates a fourth $\frac{1}{4}$ description. POUs in highly subdivided areas or a townsite could warrant a fourth $\frac{1}{4}$ description.

Check whether the POU involves a subdivision, government lot, certificate of survey, etc. See "Claim Examination: Additional Legal Land Descriptions" for processing instructions.

a. Adjusting Claimed Acreage Or Legal Land Descriptions. The degree to which acreage or legal land descriptions can be adjusted without benefit of claimant contact depends on the quality of the claimant's map, and outside data sources (plat books, aerial photos, realty transfer certificates, etc.). The claimant's intent must be clearly established by their map or other information in the claim file, preferably both.

- Simple arithmetic errors in acreage may be corrected and parcel acreage may be adjusted without claimant contact. If an acreage discrepancy is not simple arithmetic or parcel adjustment, contact the claimant. A downward or upward change to the total acreage stated on the claim form which involves more than a simple arithmetic error may only be made by an amendment.
- Adjustments to the claimed legal land description may be made without claimant contact. If the legal land description cannot be refined or adjusted with certainty, contact the claimant. If the claimant cannot be contacted, adjust the legal description only to the extent possible with certainty, given the information available.

Make adjustments to the claimed POU directly on the worksheet or by attaching a POU code sheet. Explain adjustments to the claimed acreage or legal land descriptions in the comments section on the worksheet. If the POU acreage or legal land descriptions are changed so that they will be different on the decree abstract from the claim form, place an asterisk in the left column on the worksheet next to the Place of Use heading.

Acreage Errors. There are numerous reasons why the claimed parcel acres and maximum acres may need adjustment, such as

- parcel listed twice
- parcel omitted
- acres too high or too low for land description
- arithmetic errors

For example, a claim is encountered where the claimed acreage figures do not match the claimant's map. The claimed place of use is described as

32 acres	NW SW
18 acres	SW SW
<u>10 acres</u>	SE SW NW
60 acres total	

The claimant's map and department data sources clearly depict the following:

38 acres	NW SW
18 acres	SW SW
<u>4 acres</u>	SE SW NW
60 acres total	

The place of use acreage should be adjusted if no apparent possibility of conflict in ownership exists.

Legal Land Description Errors. Numerous reasons exist why the claimed legal land descriptions may need correcting or refining, such as

- duplicated parcels
- missing parcels
- backwards legals
- incorrect legals
- overly general or overly specific legals

For example, a 10 acre parcel might have been described by the claimant as lying within the NW $\frac{1}{4}$ of Section 26, etc. This legal land description might be revised to more precisely define the POU in several different ways, depending on the information in the claim file as confirmed by other available data sources.

Solution 1: 10 acres SW NW

Solution 2: 7 acres SE SW NW
3 acres SW SW NW

In some instances, a claimant may list a larger claimed acreage than the associated, overly specific, legal land description can accommodate. For example 150 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, etc. In this example, review the claimant's map and other data sources to identify the place of use. If the claimant's map provides an obvious solution that is confirmed by other data, the legal and the associated acreage should be adjusted. The legal land description could be broken into smaller parcels, or the legal description could be made more general.

Solution 1: 80 acres S2 SW
40 acres NE SW
30 acres NW SW

Solution 2: 150 acres SW

b. Changing Claimant Contact Points. If the total acreage figure is changed as a result of identifying the claimed POU, the claimant contact points must also be changed. The claimant contact points are listed below Place of Use for Irrigation on the examination worksheet. Calculate the new claimant contact points using the following equations:

$$C_p = X - 0.8(X^{0.6})$$

$$C_p = X + 0.8(X^{0.6})$$

where X = new total claimed acres
 C_p = new claimant contact point

Document the new claimant contact points by writing them on the worksheet.

2. Examining Place Of Use. Once the claimed POU has been properly identified, review the POU to confirm the accuracy and existence of the irrigated acres, and the accuracy of the legal land descriptions. Variance between the claimed POU and examined POU may only be changed upon clear, documented instructions from the claimant or by an amendment.

a. Data Sources. The POU indicated on the claim and worksheet will be compared with various data sources. These data sources include

- USDA aerial photographs taken between 1975 and 1980
- USGS orthophotoquads
- USGS topographic maps
- Water Resources Survey data and materials

Although topographic maps do not provide a pictorial representation of the POU, they do provide important evidence about slope and the feasibility of irrigating from the source claimed. This information is not easily interpreted on aerial photographs. Also, topographic maps occasionally depict conveyance ditches and spreader dike systems.

The Water Resource Survey data and materials were compiled for most counties by the Montana Water Conservation Board in the 1940's through 1960's. These data and materials consist of field notes, published books, 2" per mile (or greater) mylar maps, and 2" per mile (or greater) aerial photographs. The maps in the published survey books are 1" per mile and may be too small to make precise acreage calculations. The 2" per mile mylar maps, in addition to showing areas under irrigation at the time of the survey, also depict historically irrigated acres (not under irrigation at the time of the survey). Any of the above materials may be used as WRS data.

Field investigations may become a source of data when facts and issues cannot be resolved by other data sources, including claimant contact. See "Examination Materials and Procedures: Investigation Techniques."

b. POU Data Source Review. Use two data sources to determine whether the claimed acreage is actually irrigated. The principal data sources used in this review are the 1975-80 USDA aerial photographs and the WRS data listed above. By comparing the

claim and worksheet to each of these sources, and the sources to each other, an analysis of the changes in POU over time can be made.

Using two data sources, one earlier than the other, illustrates the changes taking place over time such as significant acreage taken out of or put into production between the two data source dates. For example, if the WRS data indicate that 50 of the claimed acres were irrigated in 1968, but a 1978 photo shows only 20 acres being irrigated, a nonuse issue may exist. Similarly, if the WRS shows 20 irrigated acres, but a 1978 photo shows 50 irrigated acres, an incremental development issue might exist.

Two data sources may not always be available for certain areas or for claims with recent priority dates. In these situations only one data source will be used and the fact noted on the worksheet. A 1970 priority date, for example, postdates the WRS data for most counties. Since the late priority date makes pre-1973 incremental development or nonuse less likely, the lack of a second data source is not likely to result in a deficient examination. If there is reason to believe an issue exists, however, contact the claimant. Post-1973 changes in irrigated acreage are subject to the Montana Water Use Act, not the water court adjudication.

In many situations, the data sources may not show evidence of present irrigation, but will indicate that irrigation may have occurred historically. Procedures for handling historically (vs. presently) irrigated acreage are outlined in "Place of Use Issues" section below.

Also determine whether all acres that appear irrigated are actually served by the claimed source and conveyance system; the acres might be served by a different source or conveyance system. Care should be taken to avoid crediting an active irrigation system with naturally subirrigated acres. Natural subirrigation sometimes resembles full service irrigation on an aerial photograph.

Claimed Acres 2.50 Or Less. Acreage totals of 2.5 acres or less are presumed to be valid. The claimant should only be contacted if a data source (e.g., county plat) clearly contradicts the claim. Aerial photographs are generally not effective tools for reviewing small acreage. Note on the examination worksheet "POU not examined due to size."

Claimed Acres 2.51 - 5.00. Compare claims of 2.51 to 5.00 acres with an aerial photographs for evidence of irrigation and to see if the claimed acreage appears correct. Contact the claimant only if the aerial photographs clearly contradicts the claimed acreage.

c. Data Source Criteria. For each claimed POU parcel, review both of the two principal data sources for evidence that the claimed acreage was being irrigated at the time the data source was compiled.

Flood Irrigation Or Flood/Sprinkler Irrigation. The following are the examination criteria for present flood irrigation or flood/sprinkler irrigation. A claimed parcel needs to meet only one of the criteria to confirm claimed acres.

- The 1975-80 USDA aerial photograph must show a definite shade contrast indicating irrigation when compared to nonirrigated lands in the vicinity. Also, evidence of a supply ditch from the claimed source must show on the photo. In a floodplain or areas with a high water table, this criteria may require a liberal interpretation.
- The 1975-80 USDA aerial photograph must show some evidence of the irrigation system. Do not count areas of brush and trees unless claimant contact supports irrigation in such areas. Do not count roads and buildings. Evidence must include:
 - i) main supply ditch from the claimed source,
 - ii) lateral spreader ditches, or some system of controlled water spreading, and
 - iii) clearly defined field boundaries, especially on the downslope side of the field.
- WRS materials indicate irrigation.

Sprinkler Irrigation. The following are the examination criteria for present sprinkler irrigation. A claimed parcel needs to meet only one of the criteria to confirm claimed acres.

- The 1975-80 USDA aerial photograph must show some evidence of the irrigation system, such as conveyance ditches from the claimed source, holding ponds, irrigation wells, pump houses, wheel lines, surface or buried mainlines, and center pivots. A definite irrigated field boundary must be determinable.
- The 1975-80 USDA aerial photograph must show a definite shade contrast indicating irrigation when compared to nonirrigated lands in the vicinity. A definite irrigated field boundary must be determined. A conveyance system from the claimed source should show on the aerial photograph or must be clearly illustrated on the claim map.

These criteria are not always valid in areas with a high water table. Most fields irrigated by wheel lines are rectangular in shape but some fields have irregular ends that are covered with handlines. Fields irrigated by center pivots are round, generally, but some cover corners with end guns or handlines. Acreage claimed under traveling gun sprinklers can be difficult to identify. Few traveling guns were used before 1975. Some traveling boom sprinklers (rotating booms) were installed from about

1969 to 1974, but they irrigated limited amounts of acreage and were limited to less than 4% slope.

- WRS materials indicate irrigation.

Subirrigation And Natural Overflow. The following are the examination criteria for present subirrigation or natural overflow. A claimed parcel needs to meet only one of the criteria to confirm claimed acres.

- The USGS topographic map must confirm the claimed boundaries as being feasible. The claimed POU must be approximately at the same contour (elevation) as the source.
- The 1975-80 USDA aerial photograph must show a definite shade contrast when compared to nonirrigated lands in the vicinity. Because of dry years or time of year photographs were taken, there may not be evidence of subirrigation or natural overflow over the entire area.
- WRS information indicates subirrigation or natural overflow.

The WRS usually does not indicate areas of subirrigation or natural overflow. A remark will not be added to denote the WRS data unless the area is specifically documented in the survey and disagrees significantly with the claimed acreage.

d. Recording Data Source Results. The POU section of the worksheet provides space to record the results of examining the two separate data sources. Record the titles and dates of the principal data sources on the examination worksheet.

Record the presently irrigated acres from each data source on the blank parcel record spaces at data source #1 and data source #2 on the worksheet. Each data source area has one space per corresponding claimed parcel. For example, a POU of twelve parcels will have twelve spaces under data source #1 and twelve spaces under data source #2.

Examination Worksheet POU Addendum. If additional space is needed to record POU examination results, use the POU Examination Worksheet Addendum, Exhibit VII-9. This form can be used to document the examination of a refined, amended, or alternative POU. Whenever an addendum is used, refer to it in the examination worksheet POU comments area. It is suggested the entire POU be placed on the addendum to reduce confusion.

e. Analyzing Claimed and Data Source Acreage Totals. After listing on the worksheet the presently irrigated acres found on the principal data sources, compare the acreage totals to the claimant contact points listed on the worksheet below "Place of Use for Irrigation."

Claimant Contact Points. The claimant contact points listed on the examination worksheet are based on the logarithmic equations shown in "Changing Claimant Contact Points" above and on Exhibit VII-10 which contains a scale illustrating the contact points. The contact points allow for photograph distortion and reviewer interpretation error. These contact points indicate the minimum discrepancy between claimed and data source acreage totals requiring claimant contact. Be sure the contact points have been revised to reflect any adjustments made to the claimed acreage total. See "Changing Claimant Contact Points" above.

Comparing Data Source Totals To Claimant Contact Points. Compare each of the two principal data source acreage totals with the claimant contact points. If either of the acreage totals is outside the range defined by the contact points, the claimant must be contacted.

f. Changing Claimed Place Of Use. The claimed POU will not be changed during the examination unless:

- amended by the claimant;
- clarified upon instructions from the claimant (see section 1. above);
- clarified by the department to the nearest reasonable and concise legal land description (see section 1. above).

When the claimed POU is changed so that the decree abstract will differ from the claim form, addendum, or amendment, a notation of the change will be made by placing an asterisk in the brackets at the left margin of the worksheet next to the POU heading.

3. Specific POU Acreage Guidelines. The following are guidelines to situations encountered in examining POU acreage. These specific situations are

- a. Both sources within range
- b. Both sources or only aerial photograph below range
- c. Only WRS below or above range
- d. Both sources or only aerial photograph above range
- e. Discretionary contact

These situations include most possible outcomes to the POU review. For each situation described below, a general course of action is described. The claimed acreage may be changed by an amendment.

a. Both Sources Within Range. Both principal data source acreage totals lie within the claimant contact point range. Furthermore, the claimed acreage does not present any discrepancies that may require discretionary claimant contact.

Example: Claimed = 100 [contact points: 87-113]
Data Source Totals: WRS = 98, USDA = 95
Action: no claimant contact needed, no acreage
issue remarks added.

b. Both Sources Or Only Aerial Photograph Below Range. When just the USDA aerial photograph total or both of the principal data source acreage totals lie below the claimant contact point range, claimant contact is required.

Examples: (1) Claimed = 100 [contact points: 87-113]
Data Source Totals: WRS = 70, USDA = 83

(2) Claimed = 100 [contact points = 87-113]
Data Source Totals: WRS = 89, USDA = 83

Review both data sources with the claimant to understand the issue. In addition, describe the adjudication process (examination, report, decrees, objections, etc.), and how the issue would be identified in the department's examination report. Do not attempt to persuade the claimant to alter the claim, just outline the options available. If necessary, a field investigation may be scheduled and conducted.

Possible resolutions include:

- The claimed acres are confirmed. Document the data or evidence supporting the claimed acreage.
- The claimant amends the claimed acres to within the contact range of both data sources. Review flow rate and volume.
- The claimant amends the claimed acres to a figure matching the higher of the two data source totals (e.g. USDA figure in example 1 above). The lower data source acreage is below the claimant contact range of the amended acreage (e.g., WRS figure in example 1 above) and nothing is found to contradict the lower data source. Inform the claimant of the unresolved issue and add the appropriate (PL) issue remark. Review flow rate and volume.
- The claimant amends the claimed acres to some other amount that is confirmed based on facts or observable data, i.e., another data source. Document the new data. Review flow rate and volume.
- The claimant amends the claimed acreage to a figure other than either data source total. Examine the amended total using newly calculated contact point range. If the data source totals are within the new contact point range, the issue is resolved. If either data source is outside the new contact point range, inform the claimant of the

unresolved issue and add the appropriate (PL) issue remark(s). Review the flow rate and volume.

When a claimant chooses to alter claimed acreage, check the claimed flow rate and volume (if it will be decreed). If either is above the guideline for the amended acres, review the flow rate and volume with the claimant.

If claimant contact is inconclusive and the acres issue is unresolved, add the appropriate place of use (PL) issue remark(s) to the department's examination report. Add the flow rate remark (and volume remark if appropriate) to identify the relationship between POU and flow rate (or volume).

Examples: P235 PL51THE MINERAL COUNTY WATER RESOURCES SURVEY (1969) APPEARS TO INDICATE 86.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

P240 PL51THE MINERAL COUNTY WATER RESOURCES SURVEY (1969) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

P270 PL51USDA AERIAL PHOTOGRAPH NO(S). 378-201, 179-108, DATED 08/29/78, 09/10/79, APPEARS TO INDICATE 84.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

P271 PL51USDA AERIAL PHOTOGRAPH NO. 179-108, DATED 08/02/79, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

F180 FR51FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

V55 VM51VOLUME MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

c. Only WRS Below Or Above Range. When the acreage total identified in WRS materials is either above or below the claimant contact point range, claimant contact is required.

Examples: (1) Claimed = 100 [contact points: 87-113]
Data Source Totals: WRS = 70, USDA = 95

(2) Claimed = 100 [contact points = 87-113]
Data Source Totals: WRS = 138, USDA = 95

Contact can be made in either of two ways.

- Send a letter (Exhibit VII-11) notifying the claimant of the discrepancy and our report to the water courts. This reduces the time spent on the WRS information which sometimes cannot be supported or disputed. At the same time, the letter allows the claimant to provide additional information supporting the claimed acreage or to amend the claim. If letter contact is inconclusive, no further

contact regarding this issue is required. Add a place of use issue remark to the department's examination report as shown in section 3.b. above.

- If circumstances or available information warrant it, an interview can be set up for the claimant to review and discuss the claim and data sources. Follow the procedures in 3.b. above.

d. Both Sources Or Only Aerial Photograph Above Range. When the aerial photograph or both of the principal data source totals are above the claimant contact point range, claimant contact is required.

Example: Claimed = 100 [contact points = 87-113]
Data Source Totals: WRS = 108, USDA = 115

Before contacting the claimant, review the claimant's claims and post-1973 rights, and the data sources for the following explanations.

- Unclaimed irrigated ground that appears on aerial photograph may be covered by a post-1973 water use permit.
- Unclaimed irrigated ground is irrigated from a different source, and part of a different water right.
- Unclaimed acreage is subirrigated.

If any one of these explanations is confirmed by a data source, the claimed acreage can be accepted and claimant contact is not necessary.

When claimant contact is initiated, follow the procedures in section 3.b. above.

e. Discretionary Contact. Whenever a claim raises questions concerning the POU which could be resolved or more clearly understood by contacting the claimant, do so. For example, if for 100 acres of irrigation claimed, 89 were identified on both data sources. Neither data source total lies below the claimant contact point range; but, the claimed acreage appears incorrect, and both data sources appear to be accurate. Claimant contact is optional.

Example: Claimed = 100 [contact points = 87-113]
Data Source: WRS = 89, USDA = 89

If the claimant is contacted, follow the procedures in section 3.b. above.

Discretionary claimant contact might also be appropriate when claim examination clearly reveals an incremental development issue, even though the difference between the two standard data sources is small. For example, the WRS shows 100 irrigated acres, and the

later aerial photograph shows 112. Although the later acreage figure is within the contact point range of 87-113, the option of contacting the claimant is available if it is clear this is the expansion of a historic flood right onto adjacent bench land through the installation of a pump/sprinkler system.

4. Place Of Use Issues. In addition to the issues discussed in "Specific POU Acreage Guidelines", i.e., claimed acres too high, claimed acres too low, incremental development, and prolonged nonuse, other issues are encountered concerning the place of use. This section contains guidelines for the following situations.

- a. Historically Irrigated Acres
- b. Overlapping POUs On Claims By Different Owners
- c. Claims By Individuals Where The POU Is Located On State Or Federal Lands
- d. POU Not Irrigable By Source Claimed
- e. Claims To Irrigation District Rights Filed By Individuals
- f. Place Of Use Not In Montana
- g. Post-June 30, 1973 Change Not In Accordance With §85-2-402, MCA

If unresolved, denote these issues with place of use (PL) issue remarks in the department's examination report.

a. Historically Irrigated Acres. POUs may be encountered that do not appear on the data sources as irrigated at the time the data was compiled, but which may have been historically irrigated. Such acreage would not meet the guidelines in "Data Source Criteria". Evidence that acreage was historically irrigated can come from several sources including the following.

- The WRS original mylars. Some of these are color coded for active and historical irrigation. They also show ditch systems not in use at the time of survey.
- The WRS field notes. Some notes identify the last year a parcel was irrigated. Most regional offices have the WRS field notes on microfilm.
- WRS or USDA aerial photographs. Evidence of diversions, ditches, dikes, orchards, etc., are sometimes visible on aerial photographs, even when no irrigation is presently occurring. This is particularly true for irrigation systems such as spreader dikes.
- Claimant interviews. Statements by claimants describing claimed acreage as historical without some supporting physical evidence are not sufficient proof that a parcel was historically irrigated.

- Field investigations. Vestiges of old systems, or crops are frequently found during field investigations.

Contact the claimant based on the lack of presently irrigated acres on the data source as interpreted using the review criteria in Section 2.c. Address the issue of historically irrigated acres. When evidence of historic irrigation is found, address at least two questions: How many acres were historically irrigated? When were they last irrigated?

- If the claimant identifies the POU as historically irrigated and that is corroborated by additional evidence, information from the interview may be accepted as proof of historical irrigation. "Additional evidence" may include information from the claimant concerning historical irrigation practices which gives a different perspective or interpretation of the data sources. Report the acres identified in the appropriate data source area of the examination worksheet. Document all statements and evidence supporting the historical irrigation. Base any issue remarks on the acreage identified as historically irrigated.
- If the claimant does not identify the acreage as historically irrigated, or there is insufficient evidence to corroborate the statement that it was historically irrigated, follow the relevant procedures in section 3. above.

Add place of use (PL) issue remarks to the department's examination report regarding the historically irrigated acres. Some example remarks are listed below. Additional remarks may need to be developed to match particular situations. All such remarks should be discussed with the water resources specialist, then sent to the program manager to ensure standardization between regional offices.

Examples: P230 PL51A FIELD INVESTIGATION CONDUCTED ON 07/01/86 FOUND REMNANTS OF A DITCH SERVING THE CLAIMED PLACE OF USE. TOTAL HISTORICALLY IRRIGATED ACRES AND LAST YEAR OF OPERATION WERE NOT DETERMINABLE. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P255 PL51THE GRANITE COUNTY WATER RESOURCES SURVEY (1959) INDICATES AN ADDITIONAL 150.00 ACRES MAY HAVE BEEN IRRIGATED PRIOR TO THE SURVEY. THE ACREAGE WAS NOT BEING IRRIGATED AT THE TIME OF THE SURVEY.

P260 PL51THE GRANITE COUNTY WATER RESOURCES SURVEY (1959) APPEARS TO INDICATE 90.00 ACRES IRRIGATED AT THE TIME OF THE SURVEY, PLUS ANOTHER 40.00 ACRES AS HAVING BEEN IRRIGATED PRIOR TO THE SURVEY.

P275 PL51USDA AERIAL PHOTOGRAPH NO. 479-3, DATED 09/10/78, INDICATES AN ADDITIONAL 25.00 ACRES MAY HAVE BEEN IRRIGATED PRIOR TO 1978. THE ACREAGE WAS NOT IRRIGATED IN 1978.

P280 PL51USDA AERIAL PHOTOGRAPH NO. 178-44, DATED 08/29/78, SHOWS EVIDENCE OF A SPREADER DIKE SYSTEM. THE SOURCE OF WATER IS AN INTERMITTENT STREAM. THE SYSTEM VISIBLE ON THE PHOTOGRAPH APPEARS CAPABLE OF IRRIGATING 90.00 ACRES WHEN WATER IS AVAILABLE.

P290 PL51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE PLACE OF USE WAS FIRST/LAST IRRIGATED IN 1952.

P291 PL51ACCORDING TO INFORMATION IN THE CLAIM FILE, AN EXPANSION IN THE NUMBER OF IRRIGATED ACRES HAS TAKEN PLACE. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

b. Overlapping POU's On Claims By Different Owners.

When recording the POU on aerial photograph overlays, overlapping POU's by different owners may be encountered.

Following are situations where an overlapping issue may not be involved.

- A claim filed by a private individual which overlaps the POU of a ditch company or other water supply organization is not considered an overlapping issue.
- The relationship of the owners is husband/wife, parents/siblings, corporation/individual, etc. This would need to be confirmed with the claimants. If there is no overlapping issue, these claims should be identified in a supplemental rights relationship. See "Irrigation: Place of Use: Supplemental Rights."

The overlap may be due to imprecise maps and legals provided by the claimant, or a mapping error by the examiner. Make certain the claimants correctly depicted their POU's. Heavily subdivided areas require precise mapping, and maps used by many claimants were not adequate to distinguish small adjacent parcels. If claimed POU legals can be clarified to correct an ambiguous situation, see "Adjusting Claimed Acreage Or Legal Land Description" above.

It may be helpful to check county plat books to determine exactly what properties are owned by each claimant.

Overlapping POU's may be from both buyer and seller filing claims. If duplicate claims are involved, one party (typically the seller) may decide to withdraw their claims. If the claimants filed on a different water right for the same parcel (i.e., different sources, priority dates, etc), it may be advisable to add or delete owners to each claim by means of transfers.

When needed changes to the claimed POU go beyond clarification, contact the claimants and attempt to arrange a meeting at which all claimants can be present. If claimant contact cannot be made, or the parties do not resolve the overlapping issue, add the following ownership remark to the department's examination report for all the claims involved.

Example: O60 OW51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W000000-00, W999999-00.

c. Claims By Individuals Where The POU Is Located On State Or Federal Land. When a claimed POU appears from data sources to be located entirely or partially on state or federal land, add an ownership remark to the department's examination report. In addition, document on the examination worksheet the data source (BLM Land Status map, etc.) used to make this determination.

Examples: O65 OW51THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. THE PLACE OF USE APPEARS TO BE ON STATE LAND.

O70 OW51THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON FEDERAL LAND.

O85 OW51PRAIRIE COUNTY RECORDS AS OF MM/DD/YY SHOWS PLACE OF USE IS OWNED BY USA (DEPT OF INTERIOR BUREAU OF LAND MGMT).

If the claim filed by an individual is duplicated by a state or federal claim, also add the following remark to the department's examination report.

Example: D95 DU51THIS CLAIM APPEARS TO DUPLICATE CLAIM NO. W000000-00 FILED BY THE BUREAU OF LAND MANAGEMENT.

d. POU Not Irrigated By Source Claimed. Data sources may show a claimed POU cannot be irrigated by the source claimed.

When this situation appears to exist, review all the claimant's claims and the data sources to be certain a POD or conveyance has not been overlooked. If clarification cannot resolve the situation, contact the claimant. If the issue remains unresolved, add a place of use remark to the department's examination report.

Examples: P295 PL51THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE IRRIGATED BY WATER FROM THE CLAIMED SOURCE.

P300 PL51PART OF THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE IRRIGATED BY WATER FROM THE CLAIMED SOURCE.

P301 PL51PART OF THE CLAIMED PLACE OF USE MAY BE QUESTIONABLE. IT DOES NOT APPEAR THE PLACE OF USE ALONG GREYSON CREEK AND DEEP CREEK ABOVE THE BROADWATER-MISSOURI EAST SIDE CANAL CAN BE IRRIGATED FROM THE CLAIMED SOURCE.

e. Claims To Irrigation District Rights Filed By Individuals. Occasionally individuals filed claims for water rights which duplicate or are shares in water supply organization claims. When it is apparent from the claim form or documentation that an individual has filed on the same water right as the water supplier claim (e.g., claimant mentions "15 shares" on claim form, or documentation contains a contract or certificate for shares), contact the claimant.

If the duplication is confirmed, the claimant may withdraw the claim. If the issue is unresolved, add the following remark to the department's examination report.

Example: D95 DU51THIS CLAIM APPEARS TO DUPLICATE CLAIM NO. W000000-00 FILED BY THE NORTH CHINOOK IRRIGATION ASSOCIATION.

f. Place Of Use Not In Montana. If all or a portion of the place of use is in another state, the POU must be described with a place of use (PL) remark on the decree abstract as other states' principal meridians are different from Montana's. In addition, add an issue remark to the department's examination report.

Examples: **** PL01PLACE OF USE IS IN SW SEC 2 TWP 20N RGE 21E LEMHI COUNTY IDAHO.

P310 PL51AN INTERSTATE USE OF WATER IS CLAIMED. PLACE OF USE IS IN IDAHO.

g. Claimed POU Reflects A Post-June 30, 1973 Change. When a claimed POU includes a change made after June 30, 1973, the issue must be addressed. Post-June 30, 1973 changes can be discovered during claimant contact or a field investigation, or from information submitted with the claim. Follow the procedures in "Special Provisions: Change in Appropriation Right".

5. Recording Place Of Use. The place of use for irrigation claims is recorded because (1) it gives a pictorial view of supplemental rights; (2) it shows irrigated land claimed by unrelated owners; and (3) it gives the accurate location of the area verified by the reviewer.

Map the claimed POU acreage on acetate overlaying the USDA aerial photograph. In addition, map the acreage identified on the USDA aerial photograph as presently irrigated, if different from that claimed. Historically irrigated parcels not meeting the guidelines in "Data Source Criteria" should also be recorded on the

overlay, and identified with the historic irrigation code letters (HI).

Due to the scale of the aerial photographs, less than 2.5 acres need not be mapped. If it becomes necessary to map small POUs, several possibilities exist, for example

- obtain county subdivision plat maps,
- obtain larger scale aeriels.

Water supply organizations should be plotted if the rights are appurtenant to a specified place of use. The claimed acreage of an irrigation district formed under Title 85, Chapter 7, MCA need not be mapped.

Clearly mark section corners, section numbers, and photograph roll and exposure numbers on the overlays. Use colored pencils or acetate marking pens to depict POU boundaries. Use different colors to visually distinguish individual rights on the overlays.

For small parcels where the claim number (possibly six digits) will not fit within the POU boundary, label the parcel one (1) through ninety-nine (99). In the margin of the overlay, write the numeric code followed by the claim number.

After the POU has been recorded, mark the front of the claim folder (___X___ place of use recorded).

E. SUPPLEMENTAL RIGHTS

Supplemental rights occur when a claimed place of use of a water right overlaps the claimed place of use on another water right having the same purpose and ownership.

Supplemental rights involving irrigation districts created under Title 85, Chapter 7, MCA are discussed in "Irrigation: Claims Filed on Irrigation District Forms." Supplemental rights for other uses claims are processed according to "Other Uses: Place of Use."

1. Identifying Supplemental Rights. Review the places of use for all irrigation claims of one ownership for supplemental rights. Irrigation districts and other water supply organizations are not considered supplemental to claims submitted by individual water users.

Supplemental rights are identified by reviewing the POU's of an ownership on the aerial photograph overlays (see section VII.F.5.). Use the overlays to determine all rights within an ownership which overlap in any way. To be considered supplemental, they can overlap entirely or in part. They may also be supplemental by overlapping in series, i.e., A overlaps B which overlaps C, even though A and C do not touch.

Use the claimed acres outlined on the mylar overlays to determine supplemental rights, not the confirmed acres. Record the number of confirmed supplemental acres on the comments area of the examination worksheet. This information may prove useful if acreage issues are later resolved.

If overlapping claims have different owners, they are not supplemental. See "Irrigation: Place of Use: Overlapping POU."

2. Recording Supplemental Rights On Examination Worksheet. The examination worksheet has a supplemental rights line to be completed by the reviewer.

SUPPLEMENTAL ☐ Yes (add supplemental rights addendum) ☐ No

The information on the Supplemental Rights Worksheet Addendum (Figure VII-1) is used to identify supplemental claims together in the temporary preliminary, preliminary, and final decrees.

To properly complete the supplemental rights addendum, use the following steps:

- Leave the 'Claim No.' in the upper right hand corner blank.
- The 'Max Combined Acres' figure is required. This figure must include the total acreage of the entire area claimed on all supplemental rights, even though only a portion of

Claim No. _____

Max. Combined Acres: _____

Reference Right: _____

Supplemental
Water Rights: _____

(_____ continued on next page)

Page _____ of _____

those lands may be overlapping. When summing parcel acreage, areas which overlap should be counted only once.

- Complete the 'Reference Right' line with the lowest ID number in the group of supplemental rights.
- Complete the 'Supplemental Water Rights' lines with the ID numbers of each of the remaining rights in the supplemental group.
- The two columns next to the ID # column can be used to record data associated to each individual water right, such as the total number of acres, flow rate, etc.
- Make sufficient copies of the form and complete the 'Claim No.' in the upper right hand corner. Add one copy to each file.

The supplemental rights area on examination worksheets printed prior to October, 1991, were formatted with the following statement:

If ref right, max combined acres for all rights ____.

If supp. right, claim ID ____ of reference right.

If supplemental rights are involved, this statement should be crossed-off and "See Supplemental Rights Addendum" written above it.

3. Supplemental Rights Issues.

a. Excessive Flow Rates. When supplemental flow rates total more than 60 gpm/ac, the claimant may be contacted to discuss whether all the rights are used, or were ever perfected. Questions to consider are (1) Was an additional ditch constructed, or an existing one extended for the junior rights? (2) Was the capacity of an existing ditch increased? (3) Were there changes in use or appropriations of additional water?

If all of the supplemental rights are not accounted for by answers to such questions, there may be nonperfected rights in the group. If so, add a remark to the department's examination report on each claim in the supplemental rights relationship. This remark should only be added when it is determined the gpm/acre of all supplemental rights total more than 60 gpm/acre. These figures are determined by adding the flow rates of the supplemental rights and dividing the total by the maximum combined acres.

When filed or use rights are involved and the claimed flow rates will be reduced by the computer, the combined flow rate in the remark should be that of the reduced flow rates. Furthermore, document the effect any maximum acres issues may have on the combined flow rate on supplemental rights.

Examples: S140 SR51THE COMBINED CLAIMED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 69.50 GPM PER ACRE. THE FLOW RATE GUIDELINE FOR INDIVIDUAL CLAIMS IS 17 GPM PER ACRE.

**** SR51THE COMBINED CLAIMED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 50 CFS WHICH APPEARS TO EXCEED THE CAPACITY OF THE MACMILLAN DITCH. THE CARBON COUNTY WATER RESOURCES SURVEY (1943) INDICATE THE DITCH CAPACITY TO BE 35 CFS.

b. Excessive Volumes. When supplemental volumes total more than twice the guideline for waterspreading systems or more than twice the capacity of the reservoir involved, the claimant may be contacted. Questions to consider are (1) Was the capacity of the reservoir increased? (2) Were there changes in use of appropriation of additional water? i.e. Does the volume on each claim reflect the total amount of water appropriated or the additional amount of water diverted above and beyond that which was appropriated prior to the enlargement?

If all of the supplemental rights are not accounted for by answers to such questions, there may be nonperfected rights in the group. If so, add a remark to the department's examination report on each claim in the supplemental rights relationship. This remark should only be added when it is determined the acre-feet per acre of all supplemental rights total more than twice the waterspreading guideline or more than twice the capacity of the reservoir. The figure for waterspreading systems can be determined by adding the volumes of the supplemental rights and dividing the total by the maximum combined acres.

When filed or use rights are involved and the claimed volume will be reduced by the computer, the combined volume in the remark should be that of the reduced volume. Furthermore, document the effect any maximum acres issues may have on the combined volume on supplemental rights.

Examples: S141 SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 17.90 ACRE-FEET PER ACRE. THE VOLUME GUIDELINE FOR INDIVIDUAL CLAIMS IS 1.90 ACRE- FEET PER ACRE.

S146 SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 200 ACRE- FEET WHICH APPEARS TO EXCEED THE CAPACITY OF MACMILLAN RESERVOIR. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE MAXIMUM STORAGE CAPACITY IS 35 ACRE- FEET.

c. Multiple Claims From Same Source. When supplemental claims exist from the same source which irrigate primarily the same POU (75% or greater overlap), this may indicate that certain claims have not been perfected, or may be duplicate or

redundant. The claimant should be contacted to discuss whether all the rights are used, or were ever perfected when:

- the supplemental flow rate totals more than 60 gpm/ac, or
- the supplemental volume totals more than twice the guideline, or
- two or more of the rights are from the same source with the same priority date, or
- the combined flow rate of the supplemental rights exceeds the ditch capacity.

When the issue is unresolved, and it appears certain claims have not been perfected, add a supplemental rights (SR) remark to the department's examination report on each claim in the supplemental rights relationship. See above example remarks.

If it appears duplicate or redundant claims have been submitted, also add the appropriate remark to the examination report for all claims involved.

Examples: D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

D93 DU51CLAIM NOS. W000000-00 AND W000000-00 MAY BE REDUNDANT CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. IT APPEARS THAT ONLY ONE WATER RIGHT IS INVOLVED.

d. Maximum Acres In Doubt. For those claims listed in a supplemental relationship where the claimed acres have been questioned in a place of use issue remark, add the following remark to the department's examination report.

Example: S150 SR51THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

The above remark is not necessary when the group of supplemental claims involves an irrigation district, or other uses claims as the supplemental rights remark for these situations contain no acres reference.

If known, document the apparently correct maximum acres figure on the worksheet of the reference right. Also document any effect this may have on combined flow rates.

4. Supplemental Rights Remark. When the information from the supplemental rights worksheet addendum is entered into the data base, the computer will use the information to add a

supplemental rights remark to the temporary preliminary, preliminary, and final decree. The supplemental rights remark will be printed on the decree abstract of each claim that is supplemental. The text for the remark is:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS OF THE CLAIMANT'S TOTAL 99999.99 ACRES. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
W000000-00, W000000-00, W000000-00, W000000-00.

F. CLAIMS FILED ON IRRIGATION DISTRICT FORMS

This section addresses claims submitted on Irrigation District forms, or claims filed by irrigation districts on a standard irrigation form. Usually these claims are filed by an institution or a company. The following types of claimants may be included in this group

- Federal Projects
- State Projects
- Public Service Corporations
- Mutual Irrigation Companies
- Water Companies
- Water User Associations
- Municipal Water Companies
- Drainage Districts
- Conservation Districts
- Corporations, Partnerships, or Trusts (with several rights)
- Individuals (with several rights)

Add information to the claim file that exists in the regional office which pertains to the claim. This could be information from the Water Resources Survey, State Water Conservation Projects Manual, the USDI-BOR Water Conservation Opportunities Study, a file maintained by the regional office on the district, delivery records, diversion records, assessment records, organization's charter, etc. Identify this information by using the department supplemental document stamp.

1. Irrigation District Form. The irrigation district form differs from the standard irrigation, domestic, stock, or other use claim forms in that several water rights from one source for the same place of use are identified on one form. The intent of the form is to allow lengthy POU descriptions to be listed only once for several rights. The form has not been limited to irrigation districts, but has been used by various claimants for many claimed purposes.

Examine claims filed on irrigation district forms according to the rules governing the purpose identified.

2. Identifying An Irrigation District. Determine whether an entity filing an irrigation district claim form for the purpose of irrigation is an irrigation district created under Title 85, Chapter 7, MCA.

Review the claim form and documentation for evidence of incorporation under the requirements of §§85-7-101 through 110. See Exhibit VII-13 for a list of irrigation districts which has been compiled by the department's engineering bureau.

Generally, any entity filing an irrigation district claim form that has the appearance of an irrigation district should be contacted, unless the order establishing the district is in the

claim file. When contacting the district, request a copy of the court order creating the district for the file.

If doubt exists whether a claimant is an irrigation district under Title 85, Chapter 7, MCA, send the claim file, including all relevant materials, to the program manager for review.

In its summary report to the water court, the department will identify irrigation districts created under Title 85, Chapter 7, MCA. Add the following owner remark to the department's examination report.

Example: O25 OW01THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER TITLE 85, CHAPTER 7, MCA.

State Project Claims. Certain state project claims are based on rights originally filed by the State Water Conservation Board (SWCB) pursuant to 89-121 RCM 1947. These department claims, can be identified by the Notice of Appropriation, which is in the name of the SWCB, and which references the statute. If there is any doubt, contact the claimant. When a right based on this statute is identified, add a remark to the department's examination report.

Example: O30 OW01THIS WATER RIGHT WAS ESTABLISHED PURSUANT TO 89-101 THROUGH 89-141 R.C.M. (1947) (REPEALED).

When a state project claim is based on a private right acquired by the state, add the following owner remark to the department's examination report.

Example: O31 OW01THIS WATER RIGHT WAS ORIGINALLY PERFECTED BY PRIVATE OWNERSHIP AND LATER COMBINED WITH WATER RIGHTS ESTABLISHED PURSUANT TO 89-101 THROUGH 89-141 R.C.M. (1947) (REPEALED).

3. Worksheet And Decree Information. Claims filed on irrigation district forms which identify more than one water right are stored in the computer in two parts. The irrigation district form itself has a "Z" identification number, and each water right listed on the irrigation district form has a "W" ID number. If there is only one water right listed on the irrigation district form, only a "W" ID number is assigned.

When more than one water right is listed on the irrigation district claim form, a worksheet will be printed for the "Z" number and each "W" number. The "Z" worksheet will show the total combined flow rate, volume, and place of use for the water rights. The "W" worksheet will normally list everything for that individual right except the place of use. If there is only one water right listed in the irrigation district form, all information will appear on the "W" worksheet (a "Z" worksheet will not be printed).

a. "Z" Numbers. A "Z" number is not a water right. To avoid confusing the public, the "Z" abstract will be suppressed

from the decrees. "Z" abstracts were included in decrees issued prior to August, 1984; however, these will be suppressed from future decrees.

To relate "W" rights to the "Z" file, add a general (RM) remark to each "W" claim listed on the irrigation district claim form.

Example: R5 RM01PARENT FILE FOR THIS RIGHT IS Z000000-00.

This remark or one like it may have been added during clarification for entry into the computer data base. If so, correct it to the above format as necessary.

The remark will only appear on internally generated abstracts, indexes, and worksheets. It will not appear on the decree abstracts.

b. POU Data Distribution. Since the "Z" abstracts will not be appearing in the decrees, the POU will have to be associated with the "W" abstracts. There are several alternatives for doing this which are:

- The POU can be added to each "W" file. To do this, add a photocopy of the "Z" worksheet to each "W" file. The POU can be transferred automatically by the records section. Indicate to records section the need to transfer the POU from the "Z" abstract to each "W" abstract by stating so in the POU area of every pertinent "W" abstract.

In some cases, separate "W" rights can be associated to specific POUs within the total area claimed. If so, list and review the POU by the individual right associated with it. Claimant contact may be helpful or necessary.

- When an irrigation POU land description seems too long to repeat on every "W" abstract, add a photocopy of the "Z" worksheet to only the lowest numbered "W" abstract.

Indicate to records section the need to transfer the POU from the "Z" abstract to this "W" abstract by stating so in the POU area of the abstract. Add the following place of use (PL) remark to the decree abstract of the remaining "W" abstracts.

Example: P190 PL01THE PLACE OF USE IS GENERALLY FROM TWP 20N TO TWP 23N, AND FROM RGE 07W TO RGE 02E, CASCADE, LEWIS AND CLARK, AND TETON COUNTIES. FOR THE COMPLETE DETAILED PLACE OF USE DESCRIPTION, SEE FILE NO. W000000-00.

(Note: One or more counties can be coded.)

- When the POU is exceptionally large (more than 200-300 parcel records), the POU need not be retained to appear on the "W" abstracts. Add a place of use (PL) remark to the decree abstract of each "W" abstract (see above example).

This option, if pursued, should be discussed with the program manager.

In addition to associating the POU to each "W" abstract, put a complete set of documentation, maps and other related materials in each "W" file. If the amount of documentation, maps and other related materials is overabundant, place the original documents in the lowest numbered "W" file, add a flag the "Z" file, and add a general information (GI) remark to the decree abstract of the remaining "W" rights.

Example: G26 GI01THE COMPLETE SET OF DOCUMENTATION, MAPS AND OTHER RELATED MATERIALS CAN BE OBTAINED BY REVIEWING FILE NO. W000000-00.

4. Examination Of Water Supply Organization Claims.

Except as specifically provided in this section, examination of water supply organization claims will follow the procedures described in the appropriate section governing the identified purpose.

a. Point Of Diversion. All PODs identified in the irrigation district claim form will be listed on the "Z" worksheet. Try to determine which PODs match which "W" numbers.

When specific points of diversion can be readily identified with the corresponding water right, add those PODs to the specific "W" abstract using a POD code sheet. This was sometimes done when the claim was originally entered into the computer.

If the PODs as identified on the "Z" worksheet cannot be associated with specific "W" water rights, the claimant may be contacted. When PODs cannot be separately identified with individual rights, then add all the PODs to each "W" worksheet.

b. Place Of Use. All claims filed on irrigation district forms will have their place of use examined.

Combined Parcels. Prior to examining the claimed parcels, attempt to combine parcels. In doing so, try to retain precision in describing irrigated areas. Combine only fully irrigated parcels. After combining parcels, the worksheet may be sent to records to be coded and a new worksheet requested.

Example:	<u>AC</u>	<u>SEC</u>	combines to:	<u>AC</u>	<u>SEC</u>
	160	NW 30		320	N2 30
	160	NE 30		160	SW 30
	160	SW 30		90	SE 30
	90	SE 30			
			NOT:	570	30

General POU Review. Compare the claimed POU, submitted maps, and documentation to the aerial photographs. Follow the procedures in "Irrigation: Place of Use" for reviewing the claimed POU land

descriptions and irrigated acreage. Follow the POU recording procedures in the Irrigation section, as well. However, it may be clearer to record the POU claimed and examined on new mylar overlays.

There are additional review procedures unique to irrigation district POU's. The limits of the district service area must be compared to the claimed POU land description. Then the acres claimed must be compared to the acres irrigated within the service area, as evident on the department's data sources. Attempt to distinguish parcels served by the irrigation district from parcels served exclusively by private water rights.

Use the documentation of the district's incorporation to review the claimed POU land descriptions for containment within their service area. Determine the limits of the district's area from their maps and documentation and other available materials. Compare this area to the POU claimed and to the aerial photographs.

If the claimed POU exceeds the contact point range, or there appears to be discrepancies between the district's service area and the claimed POU, contact the claimant. This may not be as clearly defined a decision as with individual irrigation claims. If in doubt, have the water resources specialist or regional manager review the POU before contacting the claimant.

Exceptionally Large POU's. For irrigation district claims having extremely large acreage, the claimed POU may be examined using other methods instead of using aerial photographs and recording on mylar overlays. The program manager must approve a decision not to make a full examination of the POU of a claim.

c. Flow Rate.

"Z" Numbers. The total claimed flow rate will be listed on the "Z" worksheet. This total flow rate figure should be compared to the documentation to determine whether the diversion and conveyance facilities are capable of handling the claimed flow. The "Z" flow rate should also be compared to the sum of the "W" rates. If they are not equal, or if the claimed flow appears to exceed the conveyance capacity, contact the claimant. If necessary, a field investigation may be conducted.

When such issues are unresolved, add the appropriate flow rate (FR) remark to the department's examination report on all "W" numbers.

Examples: F135 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.

**** FR51THE TOTAL FLOW RATE CLAIMED ON THE IRRIGATION DISTRICT FORM DOES NOT EQUAL THE SUM OF THE INDIVIDUAL CLAIMED RIGHTS.

When claimed POU is not fully examined the guideline for flow rate will be based on total claimed acres.

"W" Numbers. The individual flow rate associated with the specific right will be listed on the "W" worksheet. These flow rates will be reviewed according to "Irrigation: Flow Rate."

Check the combined total of all "W" number flow rates against the "Z" number flow rate. If not equal, proceed as described above.

d. Volume. The total claimed volume will be listed on the "Z" worksheet. Each "W" worksheet will show the volume claimed for that individual rights.

Volumes on irrigation district forms, both "Z" or "W", and for any purpose, will be examined according to the Volume section pertaining to the specific purpose.

5. Supplemental Rights. Irrigation supplemental rights involving water supply organizations other than irrigation districts created under Title 85, Chapter 7, MCA will be identified and reported using the procedures described in "Irrigation: Supplemental Rights."

Formal irrigation districts and irrigation projects will not be considered supplemental to claims submitted by individual water users. If uncertainty exists about whether to identify the supplemental relationship between an individual water user and an entity using an irrigation district claim form, consult the water resources specialist, regional manager, or program manager.

a. Remarking Supplemental Irrigation Districts.
When the water rights associated with an irrigation district created under Title 85, Chapter 7, MCA are supplemental, the supplemental rights area on the "W" worksheets will not be completed. If this area has been completed by the records section, delete the information. Instead, add the following supplemental rights (SR) remark containing all the "W" numbers to the department's examination report of each supplemental "W" abstract.

Example: S130 SR01THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. W000000-00, W000000-00.

b. Uses Other Than Irrigation. When irrigation district forms have been filed for uses other than irrigation (i.e., municipal commercial), supplemental rights will be identified and

remarked, using the procedures described in "Other Uses: Place of Use."

6. Claims To Irrigation District Rights Filed By Individuals. Occasionally individuals filed claims on irrigation district rights. When it is apparent from the claim form or documentation that an individual has filed on an irrigation district right (e.g., claimant mentions "15 shares" on claim form, or documentation contains a contract or certificate for shares), contact the claimant.

If the claimant confirms the duplication, the claimant may withdraw the claim. If the issue is unresolved, add the following remark to the examination report of the claim filed by the individual.

Example: D95 DU51THIS CLAIM APPEARS TO DUPLICATE CLAIM NO.
W000000-00 FILED BY THE NORTH CHINOOK IRRIGATION
ASSOCIATION.

VIII. DOMESTIC

This chapter describes the procedures unique to the examination of domestic claims. Other examination procedures for the other elements of domestic claims are described in Chapter VI, Claims Examination, and Chapter VII, Irrigation.

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A. DOMESTIC CLAIM QUESTIONNAIRE

A questionnaire (Exhibit VIII-1) has been developed to obtain additional information when the claim file does not provide sufficient information to examine a claimed domestic use. This questionnaire would be useful in the following circumstances:

- extended nonuse, such as old mining camps
- several domestic claims with same priority date, source, and documentation
- questions of nonperfected claims
- right perfected post-June 30, 1973

When the questionnaire is used, send it to the present owner. If multiple owners are involved, the questionnaire may be sent to the other owners at the reviewer's discretion. All questionnaires must be accompanied by a cover letter (Exhibit IV-8). Other questionnaires, e.g., pump and reservoir, may be sent if needed.

The questionnaire can also be used as a guide when acquiring data on domestic claims through telephone contact or in-person interviews. In such situations, the questionnaire can be filled out by the reviewer based on the information obtained from the person being contacted. Note at the top of the form that it was completed by the reviewer.

B. FLOW RATE

The flow rate for domestic claims is the rate at which water has been diverted from the source. Domestic flow rates will be decreed in units of gallons per minute (gpm) or cubic feet per second (cfs).

1. Identifying Claimed Flow Rate. The identification of claimed flow rates will follow the procedures described in "Irrigation: Flow Rate."

2. Examining Claimed Flow Rate. The claimed flow rate for domestic claims (and claims to lawn and garden use) will be reviewed according to the claimed means of diversion, using other information in the claim file, and a general flow rate guideline. Information may be gained through claimant contact.

For claimed flow rates that will be decreed, there are two underlying considerations to keep in mind. First, has the claimed flow rate actually been diverted? Second, is the claimed flow rate reasonable for the specific purpose? If the answer to either question is no, further information should be pursued to determine what is reasonable and accurate. This thought process should form the basis for examining all claims.

Unique Features Or Aspects. Any unique aspects or features of the flow rate may be remarked using the FR remark code, e.g., FR01.

Example: F45 FR01ENTIRE FLOW OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

a. Changing Flow Rate. The claimed flow rate will not be changed during examination unless:

- amended by the claimant;
- clarified by the department;
- to standardize units of measure;
- to apply standards (see part 3 below).

Make changes to the claimed flow rate directly on the worksheet. Document changes in the flow rate by checking the appropriate authority for the change, and by writing reasons on the comments line. If the change will result in a difference between the decree abstract and the claim, place an asterisk in the left margin of the worksheet in the brackets to the left of the flow rate heading.

b. Claimant Contact. For system types receiving a flow rate in the decree, claimant contact may be required. In conjunction with the review criteria in this subchapter, the claimant should also be contacted whenever the claimed flow rate is unclear, has apparent discrepancies, or appears unreasonable. This contact can have several outcomes.

- Information discussed confirms the claimed flow rate. Document the information supporting the claimed flow rate.
- A flow rate different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claim can be changed by an amendment from the claimant. Document the information used to substantiate the new data.
- If the issue is unresolved, e.g., pump data are insufficient to confirm the claimed flow rate, or data support an actual flow rate different from the one claimed, add a flow rate issue remark to the department's examination report.

3. Specific Flow Rate Review Criteria. Flow rate for domestic claims will be decreed differently depending upon the type of system involved. This section contains criteria for different types of domestic systems to be used as benchmarks for conducting department review or claimant contact.

a. Domestic Claims Without Reservoirs. The flow rate for all domestic claims not involving the use of a reservoir will be decreed as claimed. The guideline for reviewing these claims is 35 gpm. (When the method of diversion is a bucket, use 10 gpm as a guideline.) Claimed flow rates of 35 gpm or below will generally be accepted, but may be reviewed further if there is an apparent error or conflicting data.

When a claimed flow rate exceeds the 35 gpm guideline, review the claim file for data that might be useful in determining its accuracy. Useful data includes

- horsepower of pumping unit
- length, diameter, and head of gravity flow pipeline
- well pumping depth (i.e. "head" or vertical lift)
- pump make and model
- test data (well log information)
- flow rate measurements or records

When a claimed flow rate for a pump appears in error, conflicts with pump data in the claim file (such as the pump rate at Means of Diversion), or exceeds the 35 gpm guideline, and there is insufficient information in the claim file to substantiate the claimed flow rate, a "Request for Pump Information" questionnaire (Exhibit VII-3) or "Request for Gravity Flow Pipeline Information" questionnaire (Exhibit VII-5) should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire along with a cover letter (Exhibit IV-8) to the claimant. When questionnaires are returned, follow the procedures described in "Claimant Contact" above.

If claimant contact confirms a flow rate greater than the 35 gpm guideline, add a "KEEP" flag to worksheet. This will suppress

any 'error/warning' messages and explain why a flow rate issue remark was not necessary.

If contact is inconclusive, or the claimed flow rate is confirmed but exceeds three times the 35 gpm guideline, add a remark to the department examination report.

Examples: F205 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

F210 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A FLOW RATE OF 24 GPM.

F211 FR51THE CLAIMED FLOW RATE APPEARS EXCESSIVE FOR A BUCKET MEANS OF DIVERSION.

b. Domestic Claims With Onstream Reservoirs. When a claim describes an onstream reservoir as its diversion method, a flow rate will not be decreed. Cross out the claimed flow rate and write "0.00" next to the crossed out flow rate and place an asterisk in the brackets to the left of the flow rate heading. The computer will then automatically add the following remark to the flow rate area of the decree abstract:

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

(NOTE: This remark will not be stored in computer.)

c. Domestic Claims With Offstream Reservoirs. The flow rate for offstream reservoirs where control of the reservoir is part of the right will be decreed as claimed, clarified, or amended. The guideline for reviewing these claims will be the capacity of the diversion or delivery system, whichever is less.

Because few claims involving offstream reservoirs include information about the capacity of their diversion or delivery systems, contact the claimant and complete a reservoir questionnaire when the claimed flow rate exceeds the 35 gpm guideline.

When a claimed flow rate exceeds the capacity of the system, or the 35 gpm flow rate guideline, and contact is inconclusive, add a remark to the department's examination report.

Examples: F135 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.

F145 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF 2.50 CFS.

F205 FR51THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM
GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED
DUE TO LACK OF DATA.

d. Formerly Decreed Flow Rates. Claimed flow rates based on historic flow rates *specifically* decreed for domestic use (i.e., not contingent upon another decreed purpose) will be decreed as claimed, clarified or amended.

If the claimed flow rate is greater than the amount historically decreed, contact the claimant. If the discrepancy is not resolved, add a flow rate remark to the department's examination report.

Example: F90 FR51THE CLAIMED FLOW RATE EXCEEDS THE 5 MINER'S
INCHES OF WET CREEK DECREED IN CASE NO. 0000,
GALLATIN COUNTY.

A formerly decreed flow rate will be compared to the guideline for the type of domestic system. For claimed amounts exceeding the guideline, contact the claimant. If the issue is unresolved, add an issue remark to the department's examination report.

Flow rates based on a historically decreed water right *specifically* for domestic use will be recorded. When a historically decreed right is found to be exceeded by the combined flow rate of claims based on that right, add a decree exceeded (DE) remark to the department's examination report. See "Irrigation: Flow Rate: Recording Documentation" section.

4. Flow Rate Issues. Any pertinent issues discovered during the examination should be remarked on the department's examination report using a flow rate (FR) remark.

a. Claimed Flow Rate Appears Inadequate. Claimed flow rates that appear excessively low (e.g., 1 gpm or less) should lead to claimant contact unless the submitted documentation clearly indicates the claimed rate is not an error. Be aware of unit of measurement and decimal placement errors. If claimant contact does not resolve the issue, add the following remark to the department's examination report.

Example: F185 FR51THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE
FOR THE CLAIMED PURPOSE.

b. No Flow Rate Claimed. If no flow rate was claimed where a flow rate is to be decreed, contact the claimant. If a flow rate is not submitted, check that the flow rate is expressed as "0.00" and place a "KEEP" flag on the worksheet next to the flow rate. Add a remark to the department's examination report.

Examples: F195 FR51NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE
GUIDELINE FOR THIS PURPOSE IS 35 GPM.

F190 FR51NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

c. Claimed Flow Rate Not Numerically Quantified.

Where a flow rate is to be decreed and the claim states the flow rate as "All" or a portion of "All" (e.g., "½ of ALL"), the following procedures apply.

- For formerly decreed rights, check that the flow rate is expressed as "0.00 KEEP" and add a flow rate remark to the decree abstract to identify the claimed flow rate.

Examples: F45 FR01ENTIRE FLOW OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

F50 FR01THIS RIGHT IS FOR ONE FOURTH THE FLOW OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.

For filed and use rights claimant contact should be pursued. If an amendment is not submitted, check that the flow rate is expressed as "0.00 KEEP". Add a flow rate remark to the decree abstract.

Example: F56 FR01ENTIRE/ONE FOURTH THE FLOW OF CLEAR CREEK.

AND

- Add a flow rate issue remark to the department's examination report.

Examples: F170 FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED.

F172 FR51NO QUANTIFIED FLOW RATE WAS CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

Where a flow rate is to be decreed and a flow rate value has not been identified for multiple claims based on the same historic water right filed by the same claimant, add the following remark to the department's examination report for each claim involved. This remark is in lieu of the FR51 issue remark referenced above.

Example: **** FR51THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED. THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE ALL BASED ON THE SAME HISTORIC WATER RIGHT. W000000-00, W000000-00.

C. VOLUME

The volume for a domestic water right is the amount of water diverted in a year and is stated in acre-feet per year.

1. Identifying Claimed Volume. Identification of claimed volumes follows the procedures described in "Irrigation: Volume."

2. Examining Claimed Volume. The claimed volume for domestic claims (and claims to lawn and garden use) will be reviewed according to the claimed means of diversion, using other information in the claim file and a general volume guideline. Information may be gained through claimant contact.

Unique Features Or Aspects. Any unique aspects or features of the volume may be remarked using a volume remark (VM), e.g. VM01.

Example: **** VM01CASE NO. 0000, TETON COUNTY, DECREES ONE-THIRD INTEREST OF THE CEDAR LAKE STORAGE RIGHT.

a. Changing Volume. The claimed volume will not be changed during examination unless:

- amended by the claimant;
- clarified by the department;
- to standardize units of measure.

Make changes to the claimed volume directly on the worksheet. Document changes in the volume by checking the appropriate authority for the change, and by writing reasons on the comments line. If the change will result in a difference between the decree abstract and the claim, place an asterisk in the left margin of the worksheet in the brackets to the left of the volume heading.

b. Claimant Contact. Whenever the claimed volume is unclear, has apparent discrepancies, or appears unreasonable after the initial review, the claimant should be contacted. This contact can have several outcomes.

- Information discussed confirms the claimed volume. Document the information supporting the claimed volume.
- A volume different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claim can be changed by an amendment from the claimant. Document the information used to substantiate the new data.
- If the issue is unresolved or data support an actual volume different from the one claimed, add a volume issue remark to the department's examination report.

c. Number Of Households. Establishing a volume guideline for reviewing the claimed volume requires identifying the number of households associated with the domestic claim. Enter the number of households identified in the blank to the right of "no. households" under the volume element on the examination worksheet. The number of households will be stored in the computer data base and will appear on the decree abstract. Place a checkmark in the blank to the left of "no. households" on the worksheet.

Identifying Number Of Households. The claimed number of households can be identified by referring to the claim file to determine how many people and households are served by the water right. To convert the number of people claimed to households, assume five people equal one household. Round odd lots up to the next higher household figure, e.g., 7 people equal two households. If the number of houses described in the claim conflicts with the number of households derived from people, the reviewer must use their judgement or it may be assumed the figure implying the larger number is correct. Contact the claimant if necessary.

Due to the small scale of most domestic places of use, aerial photographs are of limited value in substantiating the claimed number of households. Only if there is a wide discrepancy between the claimed number of households and the aerial photograph, or if the photograph shows no evidence of pre-June 30, 1973 domestic use, should the claimant be contacted.

d. Feasibility Check. Check claimed volume for feasibility. The 'comparison stat.' under volume on the worksheet list the maximum volume possible if water were diverted at the claimed flow rate throughout the claimed period of use (year round use equals 366 days). Compare this figure to the claimed volume.

When a claimed flow rate or period of use has been amended, recalculate the maximum feasible volume figure, using one of the following equations.

For cfs: Feasible V = Q x days used x 1.9834711

For gpm: Feasible V = (Q x days used)/226.28542

Contact the claimant when a claimed volume exceeds the maximum feasible volume. Flow rate, volume, and period of use should be discussed with the claimant to determine which is in error.

When claimant contact does not resolve the problem, the computer will add a volume remark to the department's examination report.

Example: VM51THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

3. Specific Volume Review Criteria. Volumes for domestic claims will be decreed differently depending on the type of

system involved. This section contains the criteria for different types of domestic systems to be used as benchmarks for conducting department review or claimant contact.

a. Domestic Claims Without Reservoirs. The volume for domestic claims without reservoirs will be decreed as claimed, clarified, or amended. The guideline for reviewing these claims is:

- one acre-foot per household
- two acre-feet per acre of domestic irrigation

However, the starting minimum guideline for domestic use with or without domestic irrigation is 1.5 acre-feet.

Claimed volume at or below the guideline will generally be accepted. However, review the number of hours per day it takes to deliver the claimed volume ('comparison stat.'). A high figure (greater than 10 hrs/day) may indicate a problem with the volume, flow rate or period of use.

When a claimed volume exceeds the guideline, the claim file should be reviewed for data supporting the claimed volume. Also, review the number of hours per day it takes to deliver the claimed volume ('comparison stat.'). A high figure (greater than 10 hrs/day) may indicate a problem with the volume, flow rate or period of use. If the claimed volume is not supported by data in the claim file, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

If adjustments are made to the claimed volume, flow rate or period of use, revise the hrs/day figure ('comparison stat.') to confirm the claim is reasonable.

Seasonal Use. If the claim file indicates the period of use to be other than year round, such as a summer cabin on Flathead Lake, the volume guideline will be calculated by prorating the year round guideline. The total prorated figure may equal a certain amount for households plus a different amount for lawn and garden.

b. Domestic Claims With Reservoirs. The volume for domestic claims with reservoirs will be decreed as claimed, clarified, or amended. The guideline for domestic claims involving reservoirs is one acre-foot per household plus two acre-feet per acre plus a reasonable amount for evaporation. The evaporation adjustment to the guideline only applies if the claimant has control of the reservoir as part of the domestic right. Calculate the guideline either on the examination worksheet or the reservoir worksheet (Exhibit VI-8).

On large reservoirs claimed for domestic use, the guideline may be artificially high due to the evaporation variable. This may not be a guideline of beneficial use. On claims where this occurs, base claimant contact on the guideline of one acre-foot per household and two acre-feet per acre.

Claimed volume at or below the calculated guideline will generally be accepted, but may be reviewed further if there is an apparent error or conflicting data.

When the claimed volume exceeds the calculated guideline, the claim file should be reviewed for data supporting the claimed volume. If the claimed volume is not supported by the claim file, contact the claimant. If the contact is inconclusive, add a remark to the department's examination report.

Reservoir Data. When the claimed volume is greater than 15 AF and the claimant has control of the reservoir as part of the domestic right, data will be collected and added according to the procedures in "Claim Examination: Reservoirs".

Seasonal Use. If the claim file indicates the period of use to be other than year round, such as a summer cabin on Flathead Lake, the volume guideline will be calculated by prorating the year round guideline. The total prorated figure may equal a certain amount for households plus a different amount for lawn and garden.

c. Formerly Decreed Volume. A volume will be decreed to claims based on volume formerly decreed *specifically* for domestic use. Add a volume remark to the department's examination report.

Example: V10 VM01THIS VOLUME WAS PREVIOUSLY DECREED IN CASE NO. 0000, MEAGHER COUNTY.

If the claimed volume is greater than the amount historically decreed, contact the claimant. If the issue is not resolved, add a volume remark to the department's examination report.

Example: V30 VM51THE CLAIMED VOLUME EXCEEDS THE 50 ACRE-FEET DECREED IN CASE NO. 0000, GALLATIN COUNTY.

A formerly decreed volume will be compared to the guideline for the type of domestic system. For claimed amounts exceeding the guideline, contact the claimant. If the issue is unresolved, add an issue remark to the department's examination report.

Volumes based on a formally decreed right *specifically* for domestic use will be recorded. See "Irrigation: Flow Rate; Recording Documentation" section. When a historically decreed right is found to be exceeded by the combined volume of claims based on that right, add to the department's examination report a decree exceeded (DE) remark modified to refer to volume and acre-feet.

4. Volume Issues. Any pertinent issues discovered during the examination should be remarked on the department's examination report using a volume (VM) remark.

a. Volume Guideline Not Determinable. The calculation of the volume guideline for domestic claims requires the

claimed number of households and acres of domestic irrigation be identified. When the number of households or total acres cannot be identified and the claimed volume exceeds 3.0 AF, add the following issue remark to the department's examination report.

Example: V60 VM51THE CLAIMED VOLUME WAS NOT EXAMINED. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION COULD NOT BE IDENTIFIED.

In some instances the claimed number of households and total irrigated acres are large but are not supported by outside data sources. If household and acres questions raised by the claim and data sources are not resolved through claimant contact, base the volume guidelines reported on the claimed number of households and total acres. Add the following volume issue remark to the department's examination report.

Example: V65 VM51THE CLAIMED VOLUME MAY BE EXCESSIVE. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION APPEAR TO BE INACCURATE.

b. Volume Excessive. When a claimed volume exceeds the guidelines and is not supported by available data, contact the claimant. If the volume is amended, the new volume figure should be checked as reasonable compared to the number of hours per day required to deliver the volume.

If the claimant contact is inconclusive, add an issue remark to the department's examination report.

Examples: V70 VM51THE CLAIMED VOLUME EXCEEDS THE 2.50 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V75 VM51THE CLAIMED VOLUME EXCEEDS THE 2.00 ACRE-FEET GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 1.80 ACRE-FEET.

V77 VM51VOLUME APPEARS TO BE EXCESSIVE FOR A BUCKET MEANS OF DIVERSION.

V80 VM51THE CLAIMED VOLUME APPEARS EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EXCEEDS THE GUIDELINE OF 3.00 ACRE-FEET PLUS A REASONABLE AMOUNT FOR EVAPORATION.

V85 VM51VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 24.0 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.

V100 VM51THE CLAIMED VOLUME APPEARS TO/MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V105 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 2.30 ACRE-FEET.

V111 VM51THE CLAIMED VOLUME CANNOT BE CONFIRMED DUE TO LACK OF DATA.

c. Claimed Volume Inadequate. If the claimed volume appears inadequate for the claimed use, or compared to available data, contact the claimant. Volumes should not be raised arbitrarily through claimant contact to the guideline. The guidelines are strictly a tool to trigger the need for further review. When contacting claimants about low volumes, try to determine a new volume based on actual use that is reasonable compared to the number of hours per day required to deliver the volume. If amended, the new volume figure should be checked as reasonable.

If claimant contact is inconclusive, add the following remark to the department's examination report.

Example: V45 VM51THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

d. No Volume Claimed. Contact the claimant. If a volume is not submitted, add the following remark to the department's examination report.

Examples: V90 VM51NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 2.00 ACRE-FEET PER YEAR.

V95 VM51NO VOLUME HAS BEEN CLAIMED.

e. Claimed Volume Not Numerically Quantified. When a claimed volume states "All" or a portion of "ALL" (e.g. "½ of ALL"), contact the claimant. If amended, the volume figure should be checked as reasonable compared to the number of days required to deliver the volume.

- For formerly decreed rights, check that the volume is expressed at "0.00 KEEP" and add a volume remark to the decree abstract to identify the claimed volume.

Examples: V11 VM01ENTIRE VOLUME OF THE SOURCE AS DECREED IN CASE NO. 0000, TOOLE COUNTY.

V12 VM01THIS RIGHT IS FOR ONE FOURTH THE VOLUME OF BEAVER CREEK AS DECREED IN CASE NO. 0000, BEAVERHEAD COUNTY.

For filed and use rights, claimant contact should be pursued. If an amendment is not submitted, check that the volume is expressed as "0.00 KEEP" and add a volume remark to the decree abstract.

Example: V13 VM01ENTIRE/ONE FOURTH THE VOLUME OF CLEAR CREEK.

AND

- Add a volume issue remark to the department's examination report.

Example: V96 VM51THE VOLUME HAS NOT BEEN EXAMINED AS NO QUANTIFIED VOLUME WAS CLAIMED.

V97 VM51NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 2.50 ACRE-FEET PER YEAR.

D. PLACE OF USE (POU)

The place of use for a domestic claim includes the households, associated facilities, lawns, gardens, shelterbelts, ornamental acreage, noncommercial greenhouses, and orchards where the water was historically used. The place of use will be described with a figure denoting the number of households, a legal land description and, if domestic irrigation is included, an acreage figure.

Although the place of use element appears after the volume element on the examination worksheet, place of use should be reviewed first. The number of households and irrigated acres claimed must be identified before the volume guideline can be determined.

1. Identifying Place Of Use. Most procedures for identifying place of use are described in "Irrigation: Place of Use." There are also several procedures unique to domestic claims.

Due to the small size of most domestic places of use, particular emphasis should be placed on refining claimed legal land descriptions and on providing additional legal land descriptions, such as lot, block, and subdivision. Consult county records or the claimant when it appears a more precise legal can be developed, or that the parcel lies within a platted subdivision or a certificate of survey but the claimed data is not clear. See section VI.D. for procedures.

2. Examining Place Of Use. Review the claimed place of use by comparing it with a post-priority date aerial photograph. If an aerial photograph is unavailable, use an orthophotoquad. Other helpful data sources include USGS maps, Water Resources Survey data, county plat books, ownership records, and the claim file itself.

a. Reviewing Legal Land Descriptions. If the claimed place of use is not evident on the aerial photograph, check county land records to determine whether the claimed legals are correct. If incorrect, contact the claimant. When claimant contact is unsuccessful, add a place of use remark to the department's examination report.

Example: **** PL51RAVALLI COUNTY RECORDS INDICATE THE LEGAL LAND DESCRIPTION FOR THE CLAIMED PLACE OF USE IS SWSWSW SEC 03 TWP 01N RGE 20W RAVALLI COUNTY.

If evidence of domestic use cannot be found on the aerial photographs after legals are corrected, see section 2.b. below.

b. Reviewing Domestic Irrigation. Review procedures for domestic irrigation will track closely with those used for non-domestic irrigation claims (IR). Only one post priority date data source, i.e., an aerial photograph or an orthophotoquad, need be used.

The review procedures for claims describing domestic irrigation will vary according to the total acreage claimed.

Claimed Acres 2.50 Or Less. Acreage totals of 2.5 acres or less are presumed to be valid. The claimant should only be contacted if the aerial photograph or other data source (e.g., county plat) clearly contradicts the claim. Aerial photographs are generally not effective tools for reviewing small acreage. Note on the examination worksheet that the POU was not examined due to size.

Claimed Acres 2.51 - 5.00. Compare claims of 2.51 to 5.00 acres with an aerial photograph for evidence of domestic irrigation and to confirm that the claimed acreage appears correct. Contact the claimant if the aerial photograph contradicts the claimed acreage.

Claimed Acres Exceed 5.00. Domestic irrigation of more than 5 acres is rare. Unless the aerial photograph clearly supports claimed domestic acreage greater than 5.0 (example, condominiums with extensive lawns), the claimant should be contacted to determine if the claimed acreage is entirely for domestic irrigation.

Compare the claimed domestic acreage to the aerial photograph to determine if the claimed acreage is actually irrigated. If the irrigated acreage identified on the aerial photograph differs from the claimed acreage by more than the claimant contact point range, contact the claimant and remark unresolved issues. Follow the general procedures outlined in the "Irrigation: POU: Specific Acreage POU Guidelines" section.

3. Non-domestic Irrigation. Domestic irrigation claims will be reviewed for the existence of domestic irrigation, as defined in Figure VI-1 under the Lawn and Garden (LG) and Multiple Domestic (MD) purpose of use guidelines. Irrigated acres that do not meet those guidelines will not be considered domestic irrigation. The aerial photograph or claimant contact may also indicate that some or all of the claimed acreage is irrigated for non-domestic purposes.

When non-domestic irrigation is identified, all irrigation claims filed by the claimant should be reviewed to determine if they overlap the place of use described on the domestic claim.

- Domestic claims that overlap the POU of an irrigation claim filed by the same owner require claimant contact. This contact may result in an amendment or instruction to eliminate the overlapping places of use, or the overlap may be justified. If either is the case, no further steps are necessary. If the issue is unresolved, add a remark to the department's examination report on both claims.

Example: P320 PL51THE PLACES OF USE FOR IRRIGATION CLAIM NO. W000000-00 AND DOMESTIC CLAIM NO. W000000-00 OVERLAP.

- When no irrigation claim is found describing the POU of a claim for apparent non-domestic irrigation, contact the claimant. If it is confirmed that the claimed POU is irrigated for other than domestic purposes, an implied irrigation claim may exist. See section XI.B. Also, the claimant may wish to amend or clarify the domestic claim to reflect domestic use only. If claimant contact does not resolve the issue, add a place of use (PL) remark to the department's examination report:

Examples: P325 PL51THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE USED FOR DOMESTIC IRRIGATION PURPOSES.

P330 PL51ONLY TWO ACRES OF THE CLAIMED PLACE OF USE APPEAR IRRIGATED FOR DOMESTIC PURPOSES.

4. Recording Place Of Use. It is only necessary to record domestic POUs greater than 5.0 acres. In some cases, e.g. subdivisions, it may be helpful to record all POUs. When recording domestic POUs, follow the procedures outlined in the "Irrigation: Place of Use: Recording Place of Use" section.

Overlapping Ownership. There is no required systematic method of identifying overlapping ownerships involving domestic claims. If an ownership overlap situation is discovered, refer to the "Irrigation: Place of Uses: Place of Use Issues" section.

Supplemental Rights. No review for or identification of supplemental relationships will be made for domestic claims.

X. OTHER USES CLAIMS

This chapter describes the procedures unique to the examination of other uses claims. The following elements are discussed.

- A. General Discussion
- B. Flow Rate and Volume
- C. Place Of Use

The examination procedures for the other elements of an Other Use claim are contained in Chapter VI, Claim Examination.

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A. GENERAL DISCUSSION

1. The Other Uses Claim. The "other uses" is a catch-all category for all historic water uses other than irrigation, stockwater, and domestic claims. As a result, it combines a number of very different types of water use.

The other uses claim form used during the claim filing period allowed claimants to choose from 14 generalized types of water uses to describe the historic purpose of their water right. It is now apparent those purpose codes were not specific enough; most allowed the inclusion of a wide variety of dissimilar types of water uses.

The combination of dissimilar uses within the other uses category has made it difficult to come up with usable flow rate and volume guidelines. In addition, there are few outside data sources to supplement the information in the claim file. For example, although USDA aerial photographs and Water Resources Survey data are useful tools for understanding an irrigation claim, they are usually of limited value when examining an other use claim. The few data sources available usually do not directly address questions about historic water use.

Because of limited useful data sources, a thorough examination of other uses claims will require claim specific research, claimant contact, and in many cases, field investigation. Examiners will often have to rely on their judgment to determine the extent to which other uses claims should be examined. The object is to provide good information to the water court while staying within budget and time constraints. The following sections are intended to assist the examiner in making those judgments.

2. Other Use Claim Questionnaires. Most other uses claim files do not provide sufficient information for an adequate examination. To obtain additional information, a questionnaire for each general purpose type has been developed (Exhibits X-1 through X-7). Completed questionnaires often provide information about the design features and the water requirements of a system, and whether the claimed flow rate and volume are consistent with them.

If an other uses claim lacks sufficient data to be adequately examined, a questionnaire should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire along with a cover letter (Exhibit IV-8) to the claimant. Pump and reservoir questionnaires may also be sent to claimants of other use claims (see section C. below). Combine the mailing of all questionnaires so the number of times a claimant is contacted is minimal.

It is recommended questionnaires be completed for all claims of 100 gpm or more. Questionnaires may be completed for less than 100 gpm at the reviewer's discretion. Questionnaires may be modified to avoid requesting information already available in the claim file or other sources easily accessible to the reviewer.

B. FLOW RATE AND VOLUME

The flow rate is the rate at which water has been appropriated from the source. The volume is the amount of water that has been diverted, impounded, or withdrawn from the source over the year for the claimed purpose. Both the flow rate and volume needed for other uses vary greatly depending on the specific purpose.

See "General Procedures: Standard Measurements Of Water" for standard flow rate and volume units and equivalencies.

1. Identifying Claimed Flow Rate And Volume. Use the procedures in "Irrigation: Flow Rate" and "Volume" to check the claim form and documentation of other uses to identify the claimed flow rate and volume, and to check for correct conversion into standard units of measure.

Runoff. During the filing period, some claimants wrote "runoff" on their claim forms to describe the flow rate. Typically this was done for intermittent (non-perennial flowing) sources to describe why no specific flow rate was claimed. The term may have been added as a remark by the department during clarification as "FR01RUNOFF". This remark is no longer needed and should be deleted during examination.

2. Examining Claimed Flow Rate And Volume. Flow rates and volumes will be decreed as claimed, clarified, or amended. The claimed flow rate and volume will be reviewed using the information in the claim file, outside data sources, water use guidelines for the claimed purpose, and information gained through claimant contact. If necessary, a field investigation may be conducted.

For claimed flow rates that will be decreed, there are two underlying considerations that should be kept in mind. First, has the claimed flow rate actually been diverted? Second, is the claimed flow rate reasonable for the specific purpose? If the answer to either question is no, further information should be pursued to determine what is reasonable and accurate. This thought process should form the basis for reviewing all claims.

Unique Aspects Or Features. Important unclaimed features or aspects of the flow rate or volume may be identified on the department's examination report using a flow rate or volume remark code, e.g. FR01.

Example: **** VM01CASE NO. 0000, TETON COUNTY, DECREES ONE-THIRD INTEREST OF THE CEDAR LAKE STORAGE RIGHT.

a. Changing Flow Rate Or Volume. The claimed flow rate or volume will not be changed during examination unless:

- amended by the claimant;
- clarified by the department;
- to standardize units of measure;
- to apply standards (see part 3 below).

Changes may be made directly to the worksheet. Place an asterisk in the brackets to the left of the appropriate heading to denote changes that will result in a flow rate or volume different from that on the claim form or amendment. Standardization of units of measure need only a check mark to alert the coder.

b. Claimant Contact. For system types receiving a flow rate and/or volume in the decree, claimant contact may be required. In conjunction with the review criteria in this subchapter, the claimant should also be contacted whenever the claimed flow rate and/or volume is unclear, has apparent discrepancies, or appears unreasonable. The contact may have one of several outcomes.

- Information discussed confirms the claimed flow rate or volume. Document the information supporting the claimed value.
- A flow rate or volume different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claim can be changed by an amendment from the claimant. Document the information used to substantiate the new data.
- If the issue is unresolved, e.g. data is insufficient to confirm the claimed flow rate or volume, or data support an actual flow rate or volume different from the one claimed, add an issue remark to the department's examination report. See issues section below.

c. Data Sources. There are several data sources and procedures that may help identify which other use claims appear to claim a flow rate and volume that are reasonable and customary.

Claim File. A careful review of the claim file sometimes indicates the existence of flow rate/volume issues. The claim file may provide a clear enough picture of how water is used to determine whether the claimed flow rate is reasonable and customary. For example, if it is clear the only use of a water right in a commercial establishment is for personal hygiene, a claimed flow rate of 400 gpm seems larger than is reasonable and customary, and requires claimant contact.

Questionnaires. When the claim file does not provide sufficient data to support a flow rate or volume larger than what is reasonable and customary for the claimed purpose, a questionnaire (Exhibits VI-6, VII-3, VII-5, X-1 through X-7) should be pursued. The preferred approach would be a personal or telephone interview. Another approach is to send the questionnaire along with a cover letter (Exhibit IV-8) to the claimant, especially when the claimant cannot be contacted by telephone or in person.

Published Literature. Any relevant literature in the public domain may also be used by the reviewer. This type of material falls into two broad categories; site specific and general.

- Site Specific. Information on the water uses of large hydropower projects, mining, industrial facilities, and municipal water systems can often be found in industry publications, environmental impact statements, and records of other government agencies. Such sources of information should be located and reviewed whenever a claim is made for significant amounts of water.
- General. The EPA has developed guidelines on the daily water requirement for resorts, trailer parks, schools, theaters, stores, motels, hospitals, etc. (Exhibit X-12). Use these guidelines to identify reasonable and customary volumes, and to help determine if the claimant should be contacted.

BLM guidelines on the requirements of mining operations should also be reviewed (Exhibit X-13). The BLM guidelines, combined with information provided by a returned mining questionnaire, may help determine approximate water use requirements for a specific mining operation.

USGS flow data may be available for some of the larger streams in a basin. These data might serve as a check on claimed rates of diversion from those, and upstream, sources.

Mean Stream Flow Estimation Methods. The approximate average annual flow of a stream can be determined by using the Orsborn method, which is described in Exhibit X-14. Other available techniques are shown as Exhibits X-15 and X-16. These techniques are strictly a tool for reviewing the claimed flow rate to trigger claimant contact and further review. Application of the techniques are not required if other review adequately substantiates the claimed flow rate.

The general criteria for applying any of the three average annual flow techniques are:

- source is surface water;
- claim does not involve a pump or onstream reservoir;
- drainage area is under 200 square miles;
- claim is for mining, power generation, or fish raceways at 100 gpm or more; or
- for other "other uses" purposes at 2.5 cfs or more.

Once the average annual discharge (QAA) has been determined, retain the calculation worksheet and drainage area map as part of the file. Document the QAA on the examination worksheet. Use the QAA to determine if claimant contact is desirable, not as conclusive proof that the claimed flow rate is in error. If the difference between the claimed flow rate and QAA is significant and the issue is unresolved through claimant contact, add a flow rate remark to the department's examination report.

Example: F220 FR51THE CLAIMED FLOW RATE EXCEEDS THE ESTIMATED
AVERAGE ANNUAL FLOW OF THE SOURCE (3.50 CFS).

d. Feasibility Checks. Claims that will be decreed both a flow rate and volume should be checked for feasibility. The comparison statistics under Volume on the examination worksheet list the maximum feasible volume that can be produced by the claimed flow rate, assuming 24 hours/day of operation throughout the claimed period of use (year round use equals 366 days). Compare this figure to the claimed volume.

When a claimed flow rate or period of use has been amended, recalculate the maximum feasible volume figure using one of the following equations.

For cfs: Feasible V = Q x days used x 1.9834711

For gpm: Feasible V = (Q x days used)/226.28542

Contact the claimant when a claimed volume exceeds the maximum feasible volume. Flow rate, volume, and period of use should be discussed with the claimant to determine which is in error.

When claimant contact does not resolve the problem, the computer will add a volume remark to the department's examination report.

Example: VM51THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE
VOLUME. BASED ON FLOW RATE AND PERIOD OF USE, THE MAXIMUM
VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

e. Nonconsumptive Uses. Add a nonconsumptive use remark to the department's examination report when the claimed volume is greater than 15 acre-feet and it is clear the amount of water consumed is negligible. It may be necessary to contact the claimant, review outside data sources and, if available, a returned questionnaire to make this determination. Examples of claims which might require a nonconsumptive use remark include hydropower, flood control, recreation, fish and wildlife, placer mining, fish raceways, and navigation claims.

Example: V20 VM51THE USE OF THIS WATER APPEARS TO BE LARGELY
NONCONSUMPTIVE.

f. Large Claims. Claims describing a flow rate of 15 cfs or more, and/or a volume of 15,000 acre-feet or more should

be brought to the attention of the program manager. The program manager will determine when any special steps need to be taken in reviewing such claims. It is not necessary to refer claims listing large flow rates and volumes when those figures are obviously based on a claimant's misconceptions about units of water measurement, rather than the existence of a large project or facility. In those cases, follow the standard procedure of reviewing data sources, contacting the claimant, etc.

3. Specific Flow Rate And Volume Review Criteria. This section contains criteria for different types of other uses systems to be used as benchmarks for conducting department review or claimant contact. Claimed flow rates or volumes below these guidelines will generally be accepted, but may be reviewed further if there is an apparent error or conflicting data.

a. Other Uses Claims Without Reservoirs. Flow rates and volumes for other uses claims without reservoirs will be decreed as claimed, clarified or amended.

Due to the wide variety of purposes within the other uses category, there are no precise flow rate or volume guidelines in the claims examination rules regarding most purposes on other uses claims. The general guideline established by the rules is the reasonable and customary water use for the claimed purpose. The rules do establish specific guidelines for the following uses:

- fish and wildlife, wildlife, recreation, and navigation
- mining
- fire protection

Procedures for these uses, agricultural spraying and municipal (for which the department has developed specific guidelines) are discussed separately in sections c. through g. below.

Where specific guidelines do not exist, rely on questionnaires, common sense, a knowledge of their area, various data sources, claimant contact, and (if necessary) field investigations. It may be possible to obtain data defining the diversion rate, e.g., pump or pipeline data. This data may be used to determine the actual flow rate for the claim.

When a claimed flow rate or volume exceeds the guideline of what is reasonable and customary for the claimed purpose, review the claim file for data to support the claimed flow rate/volume. When a claimed flow rate and volume will be decreed, also review the number of hours per day it takes to deliver the claimed volume ('comparison stat.'). A high figure (greater than 10 hrs/day) may indicate a problem with the volume, flow rate or period of use. If the claimed flow rate or volume is not supported by data in the claim file, contact the claimant. If contact is inconclusive, add an issue remark to the department's examination report.

If adjustments are made to the claimed volume, flow rate or period of use, revise the hrs/day figure ('comparison stat.') to confirm the claim is reasonable.

When the claimed flow rate or volume can't be examined due to lack of data and is large enough to raise doubts about being reasonable and customary for the purpose, the appropriate following remark may be added to the department's examination report.

Examples: F85 FR51THE CLAIMED FLOW RATE WAS NOT EXAMINED AS NO FLOW RATE GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

V25 VM51THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

b. Other Uses Claims With Reservoirs. Flow rate and volume guidelines and procedures for other use claims involving reservoirs are based on whether the reservoir is onstream or offstream. Refer to "Claim Examination: Reservoirs" for general procedures pertaining to reservoirs.

Flow Rate For Onstream Reservoirs. A flow rate will not be decreed. Change the claimed flow rate to "0.00" and place an asterisk in the left margin of the worksheet next to the changed flow rate. The computer will add the following remark to the decree abstract.

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

(NOTE: This remark is not stored in the computer.)

If the claim uses other than stored water from the onstream reservoir, such as diversions upstream from the reservoir, a flow rate will be decreed. Examine the claimed flow rate using the procedures specified in part a. above.

Flow Rate For Offstream Reservoirs. The flow rate for other uses systems involving offstream reservoirs where control of the reservoir is part of the right will be decreed as claimed, clarified, or amended. The guideline for reviewing these claims is the capacity of the diversion and conveyance systems.

The claimed flow rate will be compared to information in the claim file and other data for information identifying the capacity of the diversion and conveyance system. Any information found supporting the diversion or conveyance capacity should be noted on the reservoir worksheet and a copy placed in the claim file. When there is no information regarding the capacity of the diversion and conveyance system, or the diversion and conveyance system are shared by more than one owner, compare the claimed flow rate to the guideline identified for the claimed purpose. See 3.a. above.

If the claimed flow rate exceeds the capacity of the diversion and conveyance system, or the identified guideline when the diversion and conveyance capacity are not known, contact the claimant. If the contact is inconclusive, add a flow rate issue remark to the department's examination report.

Volume For All Reservoirs. The volume for other uses systems involving reservoirs where control of the reservoir is part of the right will be decreed as claimed, clarified, or amended. When the volume is greater than 15 AF, data will be collected and added according to the procedures in "Claim Examination: Reservoirs".

When the claimed volume is 15 AF or less, it will normally be accepted and a comment should be added to the worksheet noting the volume was not examined.

When a claimed volume appears to exceed what is reasonable and customary for a claimed purpose, contact the claimant. Guidelines for when a claimed volume may be unreasonable are:

- The claimed volume is greater than two times (2X) the capacity of the reservoir.
- The claimed volume is greater than the volume which can flow through a non-consumptive system on a perennial stream during the period of use.

Add an issue remark to the department's examination report if contact is inconclusive.

If the claimed volume is over 15 AF, cannot be examined using the procedures outlined in this section, and is large enough to raise doubts about being reasonable for the purpose, add the following remark to the department's examination report. Other uses claims with this remark should be sent to the program manager to be reviewed.

Example: V25 VM51THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

c. Fish And Wildlife, Wildlife, Recreation, And Navigation. No flow rate or volume will be decreed for these uses except in the following circumstances:

- pump (use procedures in part 3a above)
- pipeline (use procedures in part 3a above)
- reservoir (use procedures in part 3b above)
- pothole lake claims by U.S. Government (see below)
- Murphy Rights (see below)

When the system for these uses involves other than the exceptions listed above, do not examine the flow rate and volume. Change the claimed flow rate and volume to zero (0.00) and add

asterisks in the margin of the worksheet. The computer will add the following remark to the decree abstract.

THE FLOW RATE AND VOLUME ARE LIMITED TO THE MINIMUM AMOUNTS NECESSARY TO SUSTAIN THIS PURPOSE. THIS RIGHT SHALL CONTINUE TO BE UTILIZED IN ACCORDANCE WITH HISTORICAL PRACTICES.

(NOTE: This remark will not be stored in the computer.)

To examine the purpose for fish and wildlife, wildlife and recreation refer to the guidelines discussed in "Claim Examination: Purpose."

Pothole Lake Claim By U.S. Government. No flow rate will be decreed for this type of claim. Change the claimed flow rate to zero (0.00) and add an asterisk in the margin of the worksheet.

A volume will be decreed for this type of claim filed by the U.S. Government (e.g., BLM, Fish and Wildlife Service, or Forest Service). Volumes for these claims are retained and decreed pursuant to the June 17, 1985 Order from the water courts. Examine the claimed volumes using the procedures in 3a above. The guideline for evaluating the claimed volume will be the capacity of the pothole lake.

Murphy Rights. The flow rate and volume of instream fish and wildlife claims filed by the Montana Department of Fish, Wildlife, and Parks on "Murphy Right" streams as identified in Exhibit X-17 will be decreed as claimed, clarified, or amended. Check the claimed flow rate and volume against the attached filed appropriation and stream flow records and add the following remark to the department's examination report. If discrepancies exist, contact the claimant.

Example: P600 PU01THIS RIGHT IS SUBJECT TO ALL PRIOR RIGHTS. THE FLOW RATE AND VOLUME REPRESENT THE CLAIMED NEEDS OF THE STATE DEPARTMENT OF FISH WILDLIFE AND PARKS TO MAINTAIN STREAMFLOWS FOR THE PRESERVATION OF FISH AND WILDLIFE HABITAT. THE CLAIMED AMOUNTS ARE MADE A MATTER OF RECORD BUT ARE SUBJECT TO CHANGE SHOULD THE COURT DETERMINE THAT THOSE WATERS ARE NEEDED FOR USES DETERMINED TO BE MORE BENEFICIAL TO THE PUBLIC. SEE R.C.M. §89-801 (1947), NOW REPEALED BY SEC. 46, CH. 452, LAWS 1973.

d. Mining. The flow rate guideline for mining is the reasonable and customary amount for the specific type of mining and system. Examine claimed flow rates for mining according to the procedures in section 3a. or 3b. above. If the claimed flow rate is greater than 100 gpm, compare it to the mean stream flow as estimated using the Orsborn method of analysis.

Volumes will not be decreed for direct flow mining systems, i.e., no reservoir is involved. Do not examine claimed volumes for

claims to direct flow mining use. Change the volume to zero (0.00). The computer will add the following remark.

THIS RIGHT IS LIMITED TO THE VOLUME OF WATER HISTORICALLY USED FOR MINING PURPOSES.

(NOTE: This remark will not be stored in the computer.)

e. Municipal. The flow rate and volume for municipal claims will be decreed as claimed, clarified, or amended. The flow rate and volume guidelines for municipal claims are the reasonable and customary amounts for the size of the municipality and/or delivery system.

Information on the population of municipalities can usually be obtained by contacting the local Chamber of Commerce, the Census Bureau or the Department of Commerce. A municipal questionnaire (Exhibit X-2), or other questionnaires can be used to obtain additional information about the system.

Examine the claimed flow rate according to the procedures in 3a and 3b above. If the claimed flow rate is not substantiated by information in the claim file or questionnaires (municipal, pump, etc.), contact the claimant. If contact is inconclusive, add a flow rate issue remark to the department's examination report.

Based on a method developed by the department, the guideline for reviewing the claimed volume is 250 gallons per capita per day (gcpd). See Exhibit X-18. Use 1970 census data to determine the population figure for calculating the gcpd. If the claimed volume is not substantiated by information in the claim file or questionnaires, calculate a volume using the guideline. Compare this calculated volume to the claimed volume. If the claimed volume exceeds the calculated guideline, contact the claimant. If the issue is unresolved, add a volume issue remark to the department's examination report.

If the municipal purpose involves multiple claims in a manifold system and the combined volume in gcpd is excessive, see "Place of Use: Supplemental Other Uses Right" below.

f. Fire Protection. Claims where the only purpose identified is fire protection will not be decreed a flow rate or volume. Do not examine the claimed flow rate or volume (parts 3a and 3b above do not apply). Change both claimed values to zero (0.00). The computer will add the following remark.

THE FLOW RATE AND VOLUME OF THIS RIGHT ARE LIMITED TO THE MINIMUM AMOUNTS NECESSARY FOR FIRE PROTECTION PURPOSES.

(NOTE: This remark will not be stored in the computer.)

For claims where fire protection is identified as a secondary purpose, add the following incidental use remark to the decree abstract. Refer to "Claim Examination: Purpose: Purpose Issues" section for further discussion.

Example: P555 PU01THIS WATER RIGHT IS INCIDENTALLY USED FOR FIRE PROTECTION.

g. Agricultural Spraying. The volume guideline for agricultural spraying is 2 AF per year or 4 AF per year if a reservoir is involved (parts 3a and 3b above do not apply). When a claimed volume exceeds the guideline, the claim file should be reviewed for data supporting the claimed volume. If the guideline is exceeded, and not supported by the claim file, contact the claimant. Find out approximately how many acres per year are sprayed. To check the claimed volume, assume that 20 gallons/acre is used.

If the claimed volume is greater than 20 gallons/acre and contact is inconclusive, add a volume issue remark to the department's examination report.

The claimed flow rate should be reviewed using the procedures in 3a or 3b above.

h. Formerly Decreed Flow Rates Or Volumes. Flow rates or volumes based on decrees involving pre-1973 water rights will be decreed as claimed, clarified, or amended. If volume were formally decreed, add a volume remark to the department's examination report.

Example: V10 VM01THIS VOLUME WAS PREVIOUSLY DECREED IN CASE NO. 0000, MEAGHER COUNTY.

If the claimed amount exceeds the amount historically decreed, contact the claimant. An implied claim may be involved if the claimant uses the difference between the claimed and decreed amount. If the issue is unresolved, add the following flow rate remark to the department's examination report.

Examples: F90 FR51THE CLAIMED FLOW RATE EXCEEDS THE 150 MINER'S INCHES OF CROOKED CREEK DECREED IN CASE NO. 0000, TETON COUNTY.

V30 VM51THE CLAIMED VOLUME EXCEEDS THE 1,750 ACRE-FEET DECREED IN CASE NO. 9999, PONDERA COUNTY.

A formerly decreed flow rate or volume will be compared to the guideline for the claimed purpose. For claimed amounts exceeding the guideline, contact the claimant. If the issue is unresolved, add an issue remark to the department's examination report. See issues section below.

Flow rates or volumes for other uses claims that will be decreed a flow rate and are based on formally decreed rights will be recorded. When a historically decreed right is found to be exceeded by the combined flow rate of claims based on that right, add a decree exceeded (DE) remark to the department's examination

report. See "Irrigation: Flow Rate: Recording Documentation" section.

4. Other Uses Flow Rate And Volume Issues. Any pertinent flow rate or volume issues discovered during the examination should be remarked on the department's examination report using a flow rate (FR) or volume (VM) remark, as appropriate.

a. Flow Rate Excessive. When a claimed flow rate that will be decreed appears excessive for the circumstances of the claim (e.g., diversion and conveyance, purpose) and contact has not resolved the issue, add a flow rate (FR) remark to the department's examination report.

Examples: F225 FR51THE CLAIMED FLOW RATE APPEARS TO/MAY BE HIGH FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

F230 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE REASONABLE AND CUSTOMARY FLOW RATE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT AN ACTUAL FLOW RATE OF 2.41 CFS.

F145 FR51THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF 2.50 CFS.

**** FR51US BUREAU OF MINES CIRCULAR NO. 8305 (1966) LISTS THE DIVERSION CAPACITY FOR THIS ORE PROCESSING FACILITY AT 400 GPM.

F240 FR51THE CLAIMED FLOW RATE CANNOT BE CONFIRMED DUE TO A LACK OF DATA.

F245 FR51THE CLAIMED FLOW RATE MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THIS CLAIM INDICATES A FLOW RATE OF 30 GPM.

F250 FR51INFORMATION IN THE CLAIM FILE DESCRIBES A HISTORIC FLOW RATE OF 35 MINER'S INCHES AND A VOLUME OF 40 ACRE-FEET PER YEAR.

F255 FR51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE CLAIMED FLOW RATE EXCEEDS THE CAPACITY OF THE CONVEYANCE SYSTEM.

F260 FR51THE FLOW RATE FOR THIS WATER RIGHT WAS MEASURED AS 112 GPM DURING A FIELD INVESTIGATION CONDUCTED ON 09/17/87.

F220 FR51THE CLAIMED FLOW RATE EXCEEDS THE ESTIMATED AVERAGE ANNUAL FLOW OF THE SOURCE (3.50 CFS).

b. Volume Excessive. When a claimed volume appears excessive for the circumstances of the claim (e.g., diversion and conveyance, purpose, reservoir capacity) and contact has not resolved the issue, add a volume (VM) remark to the department's examination report.

Examples: V40 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 2.9 TIMES THE CAPACITY OF THE RESERVOIR.

V77 VM51VOLUME APPEARS TO BE EXCESSIVE FOR A BUCKET MEANS OF DIVERSION.

V85 VM51VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 24.0 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.

V100 VM51THE CLAIMED VOLUME APPEARS TO/MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V111 VM51THE CLAIMED VOLUME CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V115 VM51THE CLAIMED VOLUME APPEARS TO EXCEED THE REASONABLE AND CUSTOMARY VOLUME FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF 4.80 ACRE FEET PER YEAR.

V120 VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUGGEST THE ACTUAL VOLUME IS 1.20 ACRE-FEET PER YEAR.

**** VM51THE MANUAL OF INDIVIDUAL WATER SUPPLY SYSTEMS DESCRIBES A YEARLY WATER REQUIREMENT OF 3.20 ACRE-FEET FOR THE CLAIMED PURPOSE.

V130 VM51THE CLAIMED VOLUME EXCEEDS THE 2.00 ACRE-FEET GUIDELINE FOR AGRICULTURAL SPRAYING.

V135 VM51THE CLAIMED VOLUME MAY BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME IS 600 GALLONS PER CAPITA PER DAY (GCPD) BASED ON THE 1980 CENSUS POPULATION OF 2,518 PEOPLE.

c. Claimed Flow Rate Or Volume Appears Inadequate. If the claimed flow rate or volume, for a right to be decreed a flow rate or volume, appears inadequate for the specific purpose or compared to available data, contact the claimant. If claimant contact is inconclusive, add a remark to the department's examination report.

Examples: V45 VM51THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

F185 FR51THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

d. No Flow Rate Or Volume Claimed. If no flow rate or volume was claimed, for a right to be decreed a flow rate or volume, contact the claimant. If a flow rate or volume is not submitted, check that the value is expressed as "0.00" on the worksheet and add a "KEEP" flag to the right of the flow rate. Add a remark to the department's examination report.

Examples: V95 VM51NO VOLUME HAS BEEN CLAIMED.

F190 FR51NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

e. Claimed Flow Rate Or Volume Not Numerically Quantified. Where a claimed flow rate or volume is to be decreed and the claim states "All" or a portion of "All" (e.g., "½ of ALL"), follow the procedures as described in "Domestic: Flow Rate: Claimed Flow Rate Not Numerically Quantified" and "Domestic: Volume: Claimed Volume Not Numerically Quantified".

C. PLACE OF USE (POU)

The place of use for other uses claims will be defined by a legal land description. Typically, acres were not identified on other use claims. However, if a claim has a specified number of acres for uses such as municipal (e.g. cemetery) or commercial (e.g. golf course), the acres should be retained.

1. Identifying Claimed Place Of Use. Identify the claimed place of use on an other uses claim using the same procedures outlined in section VII.F., Irrigation: Place of Use.

Additional Legal Land Descriptions. Pay close attention when identifying or examining other use POUs for additional legal land descriptions that would give the place of use a clearer, more precise definition. Government lots, subdivisions, certificates of survey, homestead entry surveys, and mineral surveys, when available, are useful supplements to a conventional ~~¼¼~~ section, township, and range legal land description. Such descriptions may be added directly to the examination worksheet (government or subdivision lots) or put in a remark format (subdivision names, homestead entries, mineral surveys). Code such land description remarks to appear on the decree abstract.

When adding such legal land descriptions, make certain that portions of the historic place of use are not excluded. For example, if it is not clear the place of use falls entirely within a mineral survey, add a remark to appear on the decree abstract.

Detailed discussion of these types of legal land descriptions is given in "Claim Examination: Additional Legal Land Descriptions."

2. Examining Place Of Use. Review the place of use of an other uses claim using one or more of the following data sources.

- USGS topographic maps
- orthophotoquads
- USDA aerial photographs
- Water Resources Survey Data
- returned questionnaires
- industry publications
- city directories
- mining histories
- records of other government agencies

If a claimed place of use cannot be substantiated by an outside data source contact the claimant and, if necessary, arrange a field investigation. When the claimant contact does not resolve a place of use issue, add an issue remark to the examination report.

Example: P335 PL51USDA AERIAL PHOTOGRAPH NO. 1379-48, DATED 06/18/80, SHOWS NO EVIDENCE OF FISH RACEWAYS AT THE CLAIMED PLACE OF USE.

Unique Features or Aspects. Any unique aspects or features of the place of use may be remarked using a place of use (PL) remark.

Examples: P215 PL01THE PLACE OF USE IS THE TOWN OF BAKER.

PL01THE PLACE OF USE IS EAST OF RIMINI ROAD.

PL01THE PLACE OF USE IS THE SURFACE AREA OF BAIR
RESERVOIR AT THE TOP OF THE FLOOD POOL.

Agricultural Spraying. If the claim form has legal land descriptions for the POU which are confirmed by the claimant's map, then the claimed POU parcel descriptions should be accepted. If the claim file is vague as to the boundaries of the sprayed area or it is known the spraying occurs on other than the claimant's property, the POU legal land description should be crossed out and a place of use (PL) remark added to the decree abstract.

Examples: **** PL01THE PLACE OF USE IS IN TWP 10N RGE 20E AND TWP
10N RGE 21E, CASCADE COUNTY.

**** PL01THE PLACE OF USE IS FROM TWP 10N TO TWP 15N AND
RGE 12E TO RGE 15E, CASCADE COUNTY.

P205 PL01THE PLACE OF USE IS THE GENERAL AREA WITHIN A
FIVE MILE RADIUS OF THE POINT OF DIVERSION.

Claimant contact may be necessary to fully understand where the spraying is occurring.

3. Supplemental Other Uses Rights. When reviewing other uses claims be alert to the existence of supplemental rights. Supplemental rights occur when a claimed place of use of a water right overlaps the claimed place of use of another water right having the same purpose and belonging to the same owner. Add the following remark to the examination report for all supplemental other uses claims.

Example: S135 SR01WHENEVER THE WATER RIGHTS FOLLOWING THIS
STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE
CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL
FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT.
THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT
EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL
USE. W000000-00, W000000-00, W000000-00, W000000-00.

Supplemental rights issues may exist involving flow rate and volume. When the combined flow rate and/or volume of two supplemental rights exceeds the guideline for their purpose of use by a factor of two or more, add an issue remark to the examination report for each claim.

Examples: S155 SR51THE COMBINED FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS EXCEEDS THE FLOW RATE GUIDELINE FOR MINING PURPOSES BY A FACTOR OF TWO.

S160 SR51THE COMBINED CLAIMED VOLUME FOR THE FOLLOWING CLAIMS IS 1720 GALLONS PER CAPITA PER DAY (GCPD) BASED ON THE 1980 CENSUS POPULATION OF 1896 PEOPLE AND A TOTAL CLAIMED VOLUME OF 3657 ACRE-FEET. THIS APPEARS EXCESSIVE FOR THE CLAIMED PURPOSE. W043377-00, W043378-00, W045736-00, W045737-00.

S165 SR51THE COMBINED CLAIMED VOLUME/FLOW RATE FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 480.00 ACRE-FEET/300 GPM WHICH CANNOT BE CONFIRMED DUE TO LACK OF DATA.

S170 SR51THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 1,480.00 ACRE-FEET DATA IN THE CLAIM FILE INDICATES A MAXIMUM USE OF 810.00 ACRE- FEET PER YEAR.

XI. SPECIAL PROVISIONS

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A. AMENDED CLAIMS

A claim may be amended prior to a decree. Claims should not be amended after a decree is issued; the claimant should contact the water court for instructions concerning changes in claim information.

The following requirements were implemented by the Supreme Court Water Right Claim Examination Rules on July 15, 1987. Any amendments received prior to that date will be acceptable even if they do not contain the requirements in sections A.1. and 2. below.

Amendments are required under the following circumstances, but may be used to change other elements.

- An adjustment by a claimant to a claim not presently being examined.
- An adjustment by a claimant based on information provided by a non-owner (e.g., tenant, ranch manager, Forest Service District employee)
- An adjustment to flow rate, volume, priority date, or acres. Acceptable clarifications to these elements are described in the section on each element.

1. Who May Amend. Amendments received after July 14, 1987 will only be accepted from a current owner of the claim as listed in the department records, or his legally authorized representative. If the current owner does not match the department records, supply the owner with a Form 608, Water Right Transfer Certificate. The amendment cannot be implemented until the Form 608 is received.

Amendments received from persons other than the owner listed in the department records will be added to the claim file but the information will not be entered into the decree or the computer record. Add an issue remark to the department's examination report

Example: A20 AM51AN AMENDMENT WAS SUBMITTED ON 12/08/85 WHICH HAS NOT BEEN IMPLEMENTED. THIS AMENDMENT WAS NOT SUBMITTED BY THE OWNER LISTED IN THE DNRC RECORDS.

Multiple Owners. When a claim was submitted during the filing period with multiple owners, an amendment may be accepted as follows.

If an amendment is submitted by one owner for a claim involving multiple owners (excepting husband and wife), ask the amendor whether the other owners should sign the amendment form. If so, it should be the amendor's responsibility to obtain the needed signatures and return the form. Document this communication.

An alternative is to send copies of the completed amendment form to the other owners (excepting for husband and wife ownerships). Request that they sign the copy and return it. Place

the original and all signed copies in the file. Be sure the copies are clearly marked "COPY" to avoid uncertainty on the film record. Process the amendment whether or not the copies are returned.

If one of the owners protests the amendment in writing, place the amendment and protest in the file but do not have the amendment entered into the computer record. Add the following issue remark to the department's examination report.

Example: A25 AM51AMENDMENT WAS SUBMITTED ON 02/08/87. THE AMENDMENT WAS NOT IMPLEMENTED DUE TO DISAGREEMENT AMONG THE OWNERS OF RECORD.

Split Ownerships. When a claim has been subdivided since the filing period, any current owner of record may file the amendment.

When the amendment is submitted by the original owner who filed the claim, ask if the other owners should sign the amendment form. If so, it should be the original owner's responsibility to obtain the needed signatures and return the form. Document this communication.

When the amendment is submitted by someone other than the original owner who filed the claim, send copies of the completed amendment form to the other owners. Request that they sign the copy and return it. Place the original and all signed copies in the file. Be sure the copies are clearly marked "COPY" to avoid uncertainty on the film record. Process the amendment whether or not the copies are returned.

If one of the owners protests the amendment in writing, place the amendment and protest in the file but do not have the amendment entered into the computer record. Add the following issue remark to the department's examination report.

Example: A25 AM51AMENDMENT WAS SUBMITTED 02/08/87. THE AMENDMENT WAS NOT IMPLEMENTED DUE TO DISAGREEMENT AMONG THE OWNERS OF RECORD.

2. Contents Of Amendments. Amendments must be submitted in writing either by letter or by using an amendment form (Exhibit XI-1). The water court form (Figure XI-1) may be used when few items are being amended. However, the preferred method for submitting an amendment is to use an amendment form.

All amendments received after July 14, 1987 must contain:

- the date the amendment was received
- ID numbers of the claims being amended (a separate amendment form for each claim is preferred but not required)

FIGURE XI-1
REQUEST TO AMEND STATEMENT OF CLAIM

STATE OF MONTANA

County of _____

I, _____ hereby request the following
amendment(s) to my Statement of Claim, number _____:

The amendment(s) are requested for the following reasons:

Signature date

Signature date

Subscribed and sworn before me this ____ day of _____, 19__.

Notary Seal

Residing at _____

My commission expires _____

- a map. If the POU or POD is amended, request that the claimant attach a map to locate the new POU or POD.
- reasons for the amendment (preferred but not required)
- the notarized signature of at least one current owner listed in the department's records. The notarized signature of a guardian or person with power of attorney is acceptable if supported. It is preferred that all signatories to the claim form, or their successors in interest, sign the amendment.

If proper notarized signatures cannot be obtained, do not have the amendment entered into the computer record. Add the following remark to the department's examination report.

Example: A19 AM51AN AMENDMENT WAS SUBMITTED ON MM/DD/YY REQUESTING TO AMEND THE VOLUME TO 2.00 ACRE-Feet. DNRC REQUESTED A SIGNED AND NOTARIZED AMENDMENT FORM BE SUBMITTED. THE AMENDMENT HAS NOT BEEN IMPLEMENTED AS IT HAS NOT BEEN PROPERLY FILED.

The amendment may be supplemented with other maps, letters, copies of documents, etc.

3. Processing Amendments. Processing of amendments depends upon where the particular basin is in the decree process.

a. Amendment Received Before Basin Examination. Review the amendment for clarity of intent and be sure it contains all requisite items. Complete the following steps.

- Stamp the amendment with the date of receipt.
- Stamp all documents with AMENDMENT unless clearly identified by their title.
- Make sure the claim ID number being amended is clearly identified. If amendment is a letter, write claim ID number in upper righthand corner. Add claim ID number to all documents attached to amendment.
- Add an amendment remark to document the amendment. The date in the remark should be the date the amendment was received.

Examples: A5 AM01THE PERIOD OF USE WAS AMENDED BY THE CLAIMANT ON MM/DD/YY.

A15 AM01THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON MM/DD/YY: FLOW RATE, VOLUME, MAXIMUM ACRES, PLACE OF USE.

(Note: Two or more elements can be coded.)

Send the amendment and all attachments to the records section with a short note indicating the amendment should be coded, and the materials microfilmed and stored in the claim file.

Amendments Received Prior To July 15, 1987. These amendments when encountered during examination will be considered acceptable even if they do not contain the requirements in sections A.1. and 2. above. At a minimum, the amendment must be in writing with a claim number reference, signature, and date. Check that the amendment has been properly entered into the computer data base. Add the necessary amendment remark (AM01) to the decree abstract to document the amendment.

b. Amendment Received During Basin Examination.
For amendments received during basin examination, complete the following steps.

- Process the amendment as in section 3.a. above.
- Record the amendment on the worksheet by changing the element as amended. If lengthy amendments occur to POU or POD, cross out the information on the worksheet and reference coders to the amendment.
- To alert the coders, place a check mark in the left hand margin of the worksheet for each amended element.

Amendments received during basin examination should be retained along with other examination materials and sent to the records section when a batch is to be coded. If the amendment drastically alters the information on the worksheet, it may be sent with all attachments to the records section with a note requesting an updated worksheet.

c. Amendment Received After Basin Examination.
Amendments received after a basin is examined will be processed if the amendment will not delay the issuance of the summary report or decree.

- Prior To Summary Report. Notify the program manager to confirm whether the amendment can be incorporated prior to printing. If so, process the amendment as in section 3.a. above and send the amendment to the program manager. The amendment will be coded and the materials along with a review abstract will be returned to the regional office.

If the amendment cannot be incorporated into the summary, the procedures described below will be followed.

- After Summary Report. Contact the program manager to confirm whether the amendment can be incorporated prior to printing the decree. If so, process the amendment as in section 3.a. above and send the amendment to the program manager. The amendment will be coded, and the materials

along with an updated summary report abstract will be microfilmed and returned to the regional office. The updated summary report abstract will also be sent to the water court.

If the amendment cannot be processed for inclusion in the decree, see section 3.d. below.

d. Amendment Received After Decree Issued.

Claimants wishing to amend their claim in a decreed basin should be directed to file an objection. The water court does accept late objections. Only the water court may authorize changes to claims in a decreed basin.

If an amendment is received by the department, send the amendment along with short memorandum to the water court. If the amendment corrects an error in the decree which is confirmed by your review, discuss this in your memorandum. Route the memo and amendment to the program manager for review. The program manager will be responsible for the following:

- microfilm the amendment and memorandum
- add an amendment remark to the computer data base

Example: A26 AM51AN AMENDMENT WAS SUBMITTED ON MM/DD/YY REQUESTING TO AMEND THE POINT OF DIVERSION AND PLACE OF USE. AS THIS IS A DECREED BASIN, THE AMENDMENT HAS NOT BEEN IMPLEMENTED.

- send the memorandum and copy of amendment to the water court
- add the original amendment and copy of memorandum to file

4. Examining Amendments. Amendments will become part of the claim and will be examined using procedures for that element of the claim. Examine the claim with the amended information according to the appropriate procedures for the claim type.

Occasionally an amendment may be submitted that so completely changes the claim that it could be considered a totally different water right from that originally filed. For example, amending an exempt use claim to a non-exempt use or amending a claim to add another use may be a legal issue. Bring these instances to the attention of the program manager for guidance. If it is determined the amendment is still questionable, send a copy of the amendment and claim to the water court with a request for their assistance and recommendation. Use the format of Figure XI-2 with the following title for making the request: "Request for Assistance."

B. IMPLIED CLAIMS

1. What And Why. An "Implied Claim" is a claim authorized by the water court to be separated and individually identified from multiple rights evident in one or more claims.

Each water right should have been filed on a separate claim form. When it appears that a single claim contains more than one right, certain steps will be taken to determine if an implied claim should be generated. Only the water court can authorize the generation of an implied claim.

Evidence of the existence of additional rights may appear on the claim form as multiple priority dates, sources, or purposes. Evidence may also exist in the attached maps and documentation. Usually evidence from the attachments must be fairly strong before considering sending the claim to the water court for review.

Information and data added to the claim file after 4/30/1982 by the claimant or the department which documents a different right may not be valid for generation of an implied claim. In this situation, contact the program manager prior to requesting authorization to generate an implied claim from the water court.

2. Water Court Authorization Process. Whenever a single claim appears to contain more than one right, review the claimant's other claims.

- If the claimed extra right is already on a separate claim, document this on both examination worksheets. Do not proceed further in the implied claim process.
- If there is doubt whether an extra right exists or about it being on another claim, contact the claimant.
 - (i) If the claimant confirms there is no extra right or it is covered by another claim, document this on the claim examination worksheet. This ends the implied claim review of this claim.
 - (ii) If the claimant does not respond to contact, or if the information gained is incomplete or inconclusive, contact the water court.

When it is apparent a single claim contains more than one right, send a Request For Authorization To Create An Implied Claim form (Figure XI-2) and the complete claim file to the water court.

Route the request and claim file through the Helena central office. If uncertain the extra water right is covered by another claim, send both claim files to the water court. When the water master does not authorize an implied claim, put the review request form in the claim file. This ends the implied claim review for this claim.

FIGURE XI-2

(use regional office letterhead)

REQUEST FOR AUTHORIZATION TO CREATE AN IMPLIED CLAIM

TO: Montana Water Court
FROM: Gerald Reddig, Water Resources Specialist
Glasgow Water Resources Regional Office
DATE: August 1, 1993
RE: Claim No. 40S W037631-00

This irrigation claim has two points of diversion. The first diversion is a diversion dam for a water spreading system. The second diversion is a dam and storage reservoir from which the claimant pumps from for his sprinkler system.

The 1910 priority date fits the water spreading system but not the sprinkler system. According to the claimant, water was first pumped from Bear Creek in 1966 to flood irrigate. After trying different types of irrigation, including different types of sprinklers, a pivot system was installed in 1971.

In summary, this claim appears to contain two water rights. One right is for a water spreading system with a 1910 priority date. The other right is for a sprinkler system with a 1966 priority date. The complete file for this claim is enclosed. Please review and determine whether an implied claim should be generated. Thank you for your consideration in this matter.

Enclosure

(For Implied Claims Created Without Water Court Authorization)

REQUEST AUTHORIZATION OF AN IMPLIED CLAIM

TO: Montana Water Court
FROM: Marshall Sewell, Water Resources Specialist
Helena Water Resources Regional Office
DATE: August 1, 1994
RE: Claim No. 41D W092776-00

The above claim was received April 27, 1982, as a timely filed statement of claim. Supporting documentation included notices of appropriation for:

- * 8 cfs - Big Hole River - September 20, 1901
- * 100 miners inches - Mulky Spring - July 3, 1897

According to policy in affect during and shortly after the claim filing period, authorization from the water court to create implied claims was not required. Therefore, on November 22, 1982, during the clarification process, the July 3, 1897 right was separated and implied claim 41D W182268-00 was created.

At this time, I would like to request the water court's approval of implied claim 41D W182268-00. Enclosed for your review are both claim files.

Thank you for attention to this matter.

Enclosures

Implied Claims Generated Without Water Court Authorization.
Policies and procedures in affect during and shortly after the claim filing period allowed the department to generate implied claims without water court authorization.

For any implied claims which do not contain water court authorization and it is confirmed that more than one right is involved, send a Request For Authorization Of An Implied Claim (Figure XI-2) and all claim files to the water court.

3. Generating An Implied Claim. When the water court has authorized an implied claim, transfer the additional rights to a separate claim form. The implied claim will usually be completed by the claimant or according to their direction and authorization. Place the implied claim in labeled file folder. A copy of the Request For Assistance form should be included in both the original and implied claim files.

All items on the claim form should be completed, including the map and documentation. If documentation from the original claim is extensive, reference to the original claim file in the general comments area of the implied claim examination worksheet.

The claimant's notarized signature is preferred but not required. Request filing fees pursuant to \$85-2-225, MCA.

Stamp the implied claim form in the upper right corner with the date the originally filed claim was received. Stamp or write IMPLIED CLAIM at the top of the claim form. Write the date the implied claim is generated on the label described below.

Complete the following items at the top left corner of the claim form. See Figure XI-3 for proper placement of these items.

- claim number (call Records for new numbers)
- basin number
- POD county code
- water court division code
- climatic area code (irrigation claims only)
- filing fee collected, if any, and transmittal number

Attach a label over item 2 (person completing form) on the claim form. This label states the claim has been authorized by the water court and refers to the original claim number. Its format is:

FORM AUTHORIZED BY WATER COURT	
DATE GENERATED:	_____
EXAMINER:	_____
REGIONAL OFFICE:	_____
ORIGINAL CLAIM ID:	_____
REMARKS:	_____

FIGURE XI-3

CLIMATIC AREA CODE _____

DATE CLAIM RECEIVED _____

COUNTY WHERE POINT OF DIVERSION IS _____

WATER RIGHT IDENTIFICATION NUMBER _____

BASIN NUMBER _____

WATER COURT U - UPPER MISSOURI
L - LOWER MISSOURI
Y - YELLOWSTONE
C - CLARK FORK

Form No. 761 R2/80

325800-43D

3-CA-Y

3-044

FF = \$40(0,*)

PF = \$150

1. Owner of Water Right _____

Last First Middle Initial

Implied CLAIM
STATEMENT OF CLAIM
FOR EXISTING WATER RIGHTS
IRRIGATION
For the Water Courts of the State of Montana

RECEIVED
JUN 02 1990
DNRC

FILING FEE RECEIVED FOR THIS CLAIM! IF NO FEE IS TO BE APPLIED THEN
0 - no fee received this claim (as with decreed rights)
* - fee maxed out (\$480 paid for filing claims in this water court division)
NOTE: IF VOLUNTARY FILING, SAME SOURCE, ENTER \$20.00 ON EACH CLAIM

PROCESSING FEE RECEIVED FOR THIS CLAIM! (FOR LATE CLAIMS ONLY!!)

FOUR (4) DIGIT ELECTRONIC TRANSMITTAL NUMBER _____

4. Processing Of Implied Claims. Add remarks to both the implied claim and the original claim to reference each other. Add the following remark to the decree abstract of the implied claim.

Example: C5 CI01THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. W000000-00.

Add the following remark to the original claim.

Examples: R15 RM01IMPLIED CLAIM NO. W000000-00 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

R16 RM01THE IMPLIED CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. W000000-00, W111111-00, W222222-00.

If a required filing fee is not received, add an issue remark to the department's examination report for all the implied claims involved:

Examples: F15 FI51FILING FEE INSUFFICIENT TO COVER IMPLIED CLAIM. TOTAL AMOUNT DUE \$40.00.

F20 FI51FILING FEE INSUFFICIENT TO COVER IMPLIED CLAIMS. TOTAL AMOUNT DUE \$80.00 FOR CLAIM NOS. W000000-00, W000000-00.

If the water court requests the Department to create an implied claim in a basin which has been decreed, follow the procedures outlined above and add the following general information (GI) remark.

Example: G35 GI51CLAIM WAS NOT INCLUDED IN THE BASIN 40A TEMPORARY PRELIMINARY DECREE ISSUED 05/07/85.

Send the implied claim to the records section where it will be microfilmed and entered into the centralized record system. Request that the records section return the claim with an examination worksheet.

Examine the implied claim per policy as outlined in this manual for the type of claim involved.

C. LATE CLAIMS

By definition, a late claim means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under §85-2-226. Based on the definition, a late claim is a Statement Of Claim filed with the department after 5:00 PM, April 30, 1982 which is not exempt under the provisions of §85-2-222. This section applies to late claims and exempt claims filed after April 30, 1982.

Claims not filed by 5:00 PM, April 30, 1982 may be filed with the department through July 1, 1996 on forms provided by the department. To be accepted, a claim must be physically submitted to the department or postmarked in the U.S. mail on or before the July 1, 1996 deadline. Claims physically submitted or postmarked after July 1, 1996 will not be accepted and will be returned.

Note: If a regional office moves before the July 1, 1996 filing deadline, you must seek an arrangement with the post office to have them forward mail until August 1, 1996.

1. Receipt Of Late Claims. When a late claim is received, all items on the claim form should be completed, including the notarized signature. A clearly labeled map and documentation should be supplied. If this information is not complete, request it. If it is not supplied, it will be requested again during the initial processing stage.

Fees. A filing fee and processing fee are required pursuant to §85-2-225, MCA. For further fee instructions, refer to "Claim Examination: Checking For Correct Data Entry: Checking Fee Paid."

Section 85-2-225, MCA limits the filing fee to \$480 (12 claims) per person. "Person" is defined in 85-2-102, MCA. When determining the filing fee required for late claim(s) being submitted, ask the claimant whether they have previously submitted other claims and paid fees; and if so, how much. The request for fees should be based on the answer. If the claimant indicates filing fees have been previously paid, this will need to be confirmed in order to determine the filing fee for the late claims.

Exceptions to the processing fee are exempt claims and claims filed by state agencies.

The policy on filing fees and processing fees for late claims is as follows:

- If the late claim is submitted in-person, a filing fee and processing fee are required. If both fees are not submitted, do not accept the claim.
- If the late claim is submitted by mail, a filing fee and processing are required. If both fees are not submitted, notify the claimant by mail that the fees are due. Do not

assign an I.D. number to the claim. If the fees are not received within thirty (30) days, write across top of claim "Returned For Lack Of Proper Fees" and return the original claim to the claimant with a letter indicating the fees are insufficient. Make a copy of the claim and letter for your file.

If you have a situation where it is unclear whether a filing fee or processing fee is required, error on collecting the fee. If necessary, discuss the situation with the program manager and a legal opinion will be obtained.

Closed Basins. Pursuant to reserved water right compacts ratified by the legislature prior to July 1, 1993 (effective date of SB310 - late claim legislation), certain basins are closed to the filing of late claims. Claimants should not be advised to file late claims in these basins. Basins which are closed pursuant to compacts are as follows:

Basin 42A	Moratorium in effect. This means no late claims could be filed unless DNRC lifts the moratorium.
Basin 41D	All drainages upstream of the Big Hole Battlefield from April through October.
Basin 40T	Jule, Divide and Wild Creeks upstream from the last place they either exit or form the Glacier Park boundary. All other streams and lakes within Glacier Park.
Basin 76I	Rubideau Creek upstream from the last place they either exit or form the Glacier Park boundary. All other streams and lakes within Glacier Park.
Basins 41L 41M	All streams and lakes within Glacier Park.
Basin 41F	Black Bear Canyon, Duck, Cougar, and Grayling Creeks within and upstream from the Yellowstone Park boundary.
Basin 41H	Bacon Rind, Black Butte, Daly, Fan, Snowslide, Specimen, and Wickiup Creeks within and upstream from the Yellowstone Park boundary.
Basin 43B	Blacktail Deer, Buffalo, Cottonwood, Coyote, Hellroaring, Landslide, Little Cottonwood, Mol Heron, Pebble, Stephens, and Upper Reese Creeks, and Gardner River within and upstream from the Yellowstone Park boundary.

2. Initial Processing. Whenever a late claim is received, the initial processing steps described below should be

done in a **timely manner** to ensure the claim is complete and to prepare it for input into the department's records.

Stamp the date received in the upper right corner of the claim form and circle it with a yellow highlighter. Call the records section to obtain a claim number and to record the claim on their log. Enter the claim on a regional office log. This can be the computer index of claims for the basin in decree or being examined, a regional office microcomputer log, or a manually maintained log in the regional office basin file. Place the late claim in a labeled file folder.

Place the following items in the upper left corner of the form. See Figure XI-3.

- claim number
- basin number
- climatic area code (irrigation claims only)
- county code for the POD
- water court division code
- transmittal number
- filing fee collected (example, FF=\$40)
- processing fee collected (example, PF=\$150)

If the late claim is in a decreed basin, **immediately** send written notification of the late claim directly to the water court on regional office stationery. See Figure XI-4 for format and contents of late claim notification memorandum. Place a copy of the memo in the claim file. Add the following remark to note the claim as being filed late.

Example: L5 LC51CLAIM FILED LATE MM/DD/YY. IN 1992 THE MONTANA SUPREME COURT HELD THAT THE FAILURE TO FILE A WATER RIGHT BY APRIL 30, 1982 RESULTED IN THE FORFEITURE OF THE RIGHT. THE 1993 MONTANA LEGISLATURE PROVIDED FOR THE CONDITIONAL REMISSION OF THAT FORFEITURE. THIS CLAIM WILL BE PROCESSED IN ACCORDANCE WITH THE 1993 LEGISLATURE. SEE MONTANA CODE ANNOTATED SECTIONS 85-2-213, 85-2-221 AND 85-2-225. OBJECTIONS MAY BE FILED ON ALL ELEMENTS OF THIS CLAIM.

If the late claim is filed by a state agency and the processing fee is missing, add the following issue remark to each claim.

Example: F35 FI51PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00.

If a late claim is filed in a basin which is closed pursuant to a reserved water right compact, add the following issue remark to the claim.

Example: L10 LC51THIS LATE CLAIM IS IN A DRAINAGE WHICH MAY BE CLOSED TO FURTHER APPROPRIATION PURSUANT TO A COMPACT RATIFIED BY THE LEGISLATURE PRIOR TO JULY 1, 1993.

Figure XI-4
LATE CLAIM NOTIFICATION MEMO
(Regional Office Letterhead)

MEMORANDUM

TO: Montana Water Court

FROM: Charley Carpenter, Water Resources Specialist

DATE: August 24, 1987

SUBJECT: Late Claim Notification - Basin 43F

A late claim has been filed in decreed Basin 43F. The following information is being provided per Water Right Claim Examination Rule 6.V.(4):

Claim Number: W325800

Date Received: June 31, 1987

Owner: Clara Barnloft
P.O. Box 2105
Cody, Wyoming 82414

Source: Dry Creek

The claim is presently being examined, filmed, and entered into the computer records. When processing is complete, the claim file along with a decree abstract will be forwarded to the Water Court.

CC/kb

Deposit Of Fees. When completing the electronic transmittal, also complete the "Remarks" area (see Exhibit XI-2). This will notify Centralized Services Division staff into which account to place the deposited money. Filing fees go into one account and processing fee goes into another account.

Clarification. For a late claim received in a basin where examination has not started, complete a Late Claim Clarification Form (Exhibit XI-3). Clarification of a late claim in these basins is important for an accurate computer record as it may be several years before the claim is examined.

Without getting into claim examination, clarify the claim to ensure the claim is complete and clear. Use the clarification form to document any changes. DO NOT clarify information on the claim form. If the claimed intent, documentation, or map is not clear, contact the claimant. Specific clarification procedures are outlined in "Examination Materials and Procedures: Clarification."

3. Post-Initial Processing. After the initial processing has been completed, arrange the claim file in the order it is to be filmed.

a. Claim Received In A Basin Where Examination Has Not Started. Send the file to the records section with instructions to film, enter claimed information into the computer and file claim at Records Management. Further processing will be performed when the basin is examined.

b. Claim Received During Basin Examination. Send the file to the records section with instructions to film, enter claimed information into the computer and return file with an examination worksheet. The claim will be examined with the rest of the basin claims.

If issuance of the summary report or decree is imminent, send the file to the program manager. The claim will be placed on the "fast track" for processing so it hopefully can be included in the summary report or decree.

c. Claim Received In A Summary Report Basin Or Decreed Basin. Send the file to the program manager. The claim will be placed on the "fast track" for processing. The claim will be filmed, entered into the computer and returned to the regional office along with an examination worksheet.

4. Examining Late Claims. As of July 1, 1993, all late claims are afforded a conditional remission of forfeiture, and therefore, will be examined.

a. Claim In Basin Currently Being Examined. If a late claim is in a basin currently being examined, examination will be performed using the policies and procedures pertinent to each element as outlined in this manual.

b. Claim In A Summary Report Basin. If the late claim is in a summary report basin, examine the claim using the policies and procedures pertinent to each element as outlined in this manual.

When examination of the late claim affects other claims in the summary report (e.g. late claim creates a decreed exceeded situation), make the necessary corrections on the review abstracts for those claims.

Upon completion of examination, send the complete claim file (and review abstracts of other claims) to the program manager. The program manager will be responsible for the following:

- input the examination data
- run standards
- prepare a summary report abstract
- microfilm the examination worksheet and any other documents
- send memo and summary report abstract to the water court
- return file and any other documents to regional office

c. Late Claim In A Decreed Basin. If the late claim is in a decreed basin, examine the claim using the policies and procedures pertinent to each element as outlined in this manual.

Add the following general information remark to the claim.

Example: G35 GI51CLAIM WAS NOT INCLUDED IN THE BASIN 40A TEMPORARY PRELIMINARY DECREE ISSUED 05/07/85.

When examination of a late claim affects other claims in the basin (e.g. late claim creates a decreed exceeded situation), follow standard processing procedures for the late claim. However, changes or correction to the other affected claims should not be made. This issue should be discussed in a memorandum to the water court. The memorandum should explain the situation, identify the other affected claim numbers, and discuss any proposed changes or remarks which should be addressed.

Upon completion of examination, prepare a memorandum to the water court. See Figure XI-5. Send the memorandum and the complete claim file to the program manager.

The program manager will be responsible for the following:

- input the examination data
- run standards
- prepare a decree abstract
- microfilm the examination worksheet and any other documents
- change the processing status to note the claim is at the water court
- send the complete file to the water court
- add necessary remarks to other affected claims

FIGURE XI-5

LATE CLAIM PROCESSING MEMO
(Regional Office Letterhead)

MEMORANDUM

TO: Montana State Water Court
FROM: Rusty Taylor, Water Resources Specialist
DATE: August 31, 1994
RE: Late Claim No. 41H W214451-00 (Schweitzer)

The enclosed late claim, received August 24, 1994, was not included in the Gallatin River Temporary Preliminary Decree (Basin 41K) issued December 26, 1985.

The claim has been clarified, examined, microfilmed, and entered into the main DNRC computer.

[Add a paragraph whether this claim affects other decreed claims. See below for example wording.]

A decree abstract is enclosed for your review. If you have any questions, please feel free to call.

Enclosure

[It appears this claim has no issues relating to other decreed claims in this basin.

OR

Please note this late claim is involved in a decree exceeded/supplemental rights/multiple use situation with other claims on Trout Creek. Those claims are:

W049571-00	W090248-00	W090249-00
W103155-00	W110678-00	W127900-00
W128194-00	W132431-00	

Because these claims are in a decreed basin, the decree exceeded/supplemental rights/multiple use remark associated with these claims has not been modified to include this late claim.]

D. TRANSFERS

The Water Right Transfer Certificate (Form No. 608), commonly referred to simply as a 'transfer,' is the mechanism used to update the department's water right ownership records when a change in ownership has occurred based on §§85-2-421 through 426, MCA.

Administrative Policy No. 14, "Water Right Transfer Certificate (Form No. 608) Processing Policy" revised 1993, contains the general procedures for processing transfers. Transfers are categorized as total transfers or split transfers.

1. Processing Claims With Transfers.

a. Total Transfer (100%). These are transfers where the entire water right changes ownership intact without any division of the right.

- The name and address of the new owner will be listed on the examination worksheet and the decree abstract as the owner of the right. The name and address of past owners should not appear on the worksheet or the decree abstract. The only exception is where a contract for deed is involved. In this case, the seller is retained as an owner.
- The name and address of the owner who filed the original claim is retained in the computer record. It will not appear on the decree abstract, and should not be on the examination worksheet.
- Intermediate owners that have previously filed transfers can be found in the claim file. They are not retained in the computer record for the right and should not appear on the examination worksheet.
- The following remark will be added by the records section. It will appear on the acknowledgement of water right transfer in the claim file and on the examination worksheets generated after the transfer was received. If not, add it.

Example: T25 TR01NOTICE OF WATER RIGHT TRANSFER RECEIVED MM/DD/YY.

If the transfer indicates a contract for deed situation, the seller remains on record along with the new owner and the following remark is also added.

Example: O3 OW01OWNER EDGAR RETAINED. CONTRACT FOR DEED INTEREST.

b. Split (or Proportional) Transfer. These are transfers where the original right is divided between more than one owner as separately owned rights.

Claims will not be split until after the final decree has been issued. All present owners will be listed on the examination worksheet and decree abstract. The same procedures described above for total transfers apply to the original and intermediate owners. The following remarks will be used to identify a transfer has split a water right.

Examples: T25 TR01NOTICE OF WATER RIGHT TRANSFER RECEIVED MM/DD/YY.

03 OW01OWNER EDGAR RETAINED. CONTRACT FOR DEED INTEREST.
(Note: use this remark for W, O and U claims)

05 OW01TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER
RIGHT WILL BE SPLIT INTO SEPARATE OWNERSHIPS AFTER
FINAL DECREE.
(Note: use this remark for W, O and U claims)

2. Notification Procedures. Owners of transferred water rights will be notified by the department using the following procedures.

Predecree. When a transfer is received in a basin where the water court has not issued a decree, the records section sends transfer notification using an acknowledgement abstract (Figure XI-6) as follows.

- The seller is informed via an acknowledgement abstract.
- All owners are informed via an acknowledgement abstract.
- The file gets a copy of the acknowledgement abstract.
- Microfiche showing updated ownership are sent to the regional office, based on county.

Postdecree. When a transfer is received in a basin where the water court has issued a temporary preliminary, preliminary or final decree, the records section sends transfer notification using an acknowledgement abstract (Figure XI-7) as follows.

- The seller is informed via an acknowledgement abstract.
- All owners are informed via an acknowledgement abstract. A notice of availability or notice of objection is also included with the acknowledgement for claims in decreed basins during the objection or notice of intent to appear period.
- The file gets a copy of the acknowledgement abstract.

04/05/89

FIGURE XI-6

ACKNOWLEDGEMENT OF WATER RIGHT TRANSFER
FROM
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
STATE OF MONTANA

WATER RIGHT NUMBER 42L -W-033612-00

WE HAVE RECEIVED AND RECORDED A TRANSFER OF WATER RIGHT OWNERSHIP IN WHICH
YOU WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS
BUREAU HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE
WATER RIGHT TRANSFER. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT
INFORMATION. BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT.

IF YOU HAVE QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RESOURCES REGIONAL
OFFICE. GLASGOW REGIONAL OFFICE, 228-2561.

OWNERS: PINERIDGE RANCH
STAR ROUTE
PLEVNA MT 59344

PRIORITY DATE: JUNE 4, 1981 8:31 AM

FLOW RATE: 5.00 GPM

VOLUME: 1.70 ACRE FEET PER YEAR (AF)

SOURCE: WELL

PURPOSE:
USE FLOW VOLUME (AF) ACRES PERIOD OF USE
STOCK 5.00 G 1.70 JAN 1 TO DEC 31

POINTS OF DIVERSION AND MEANS OF DIVERSION:

<u>DIVERSION:</u>							
LOT	BLK	QTR	SEC	TWP	RGE	COUNTY	MEANS
		NESWNE	12	36N	50E	DANIELS	WELL

<u>PLACE OF USE FOR STOCK:</u>									
	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
001					NESWNE	12	36N	50E	DANIELS

**TRANSFER OF OWNERSHIP:
UPON A CHANGE IN OWNERSHIP OF ALL OR ANY PORTION OF THIS CLAIM, THE
PARTIES TO THE TRANSFER SHALL FILE WITH THE DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION A WATER RIGHT TRANSFER CERTIFICATE, FORM
608, PURSUANT TO SECTION 85-2-424,MCA.

REMARKS: NOTICE OF TRANSFER RECEIVED 12/13/88.

FIGURE XI-7

04/05/89

ACKNOWLEDGEMENT OF WATER RIGHT TRANSFER
FROM
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
STATE OF MONTANA

WATER RIGHT NUMBER 40G -W127907-00

WE HAVE RECEIVED AND RECORDED A TRANSFER OF WATER RIGHT OWNERSHIP IN WHICH YOU WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT TRANSFER. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION. BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT.

PLEASE NOTE THAT THIS WATER RIGHT IS IN A TEMPORARY PRELIMINARY OR PRELIMINARY DECREE ISSUED BY THE MONTANA WATER COURT. THE NEW OWNER MAY WISH TO DETERMINE THE STATUS OF THIS RIGHT IN THE ONGOING ADJUDICATION BY THE MONTANA WATER COURT.

IF YOU HAVE QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RESOURCES REGIONAL OFFICE. HAVRE REGIONAL OFFICE, 262-5516

OWNERS:
JENSEN HAROLD
HILL RT
CHESTER MT 59522

JENSEN KATHRYN
HILL RT
CHESTER MT 59522

PRIORITY DATE: OCT 31, 1961

FLOW RATE:

VOLUME:

SOURCE: STRATTON CREEK

PURPOSE:
USE FLOW VOLUME (AF) ACRES PERIOD OF USE
STOCK JAN 1 TO DEC 31

POINTS OF DIVERSION AND MEANS OF DIVERSION:

DIVERSION:

LOT	BLK	QTR SEC	SEC	TWP	RGE	COUNTY	MEANS
		NESWNE	27	37N	05E	LIBERTY	DAM

RESERVOIR

	QTR SEC	SEC	TWP	RGE
ONSTREAM	NESWNE	27	37N	05E

PLACE OF USE FOR STOCK

ACRES	LOT	BLK	QTR SEC	SEC	TWP	RGE	COUNTY
001			NESWNE	27	37N	05E	LIBERTY

**TRANSFER OF OWNERSHIP:

UPON A CHANGE IN OWNERSHIP OF ALL OR ANY PORTION OF THIS CLAIM, THE PARTIES TO THE TRANSFER SHALL FILE WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION A WATER RIGHT TRANSFER CERTIFICATE, FORM 608, PURSUANT TO 45SECTION 85-2-424, MCA.

REMARKS: NOTICE OF TRANSFER RECEIVED 7/24/87.

- Microfiche showing updated ownership are sent to the regional office, based on county.

3. New Owner Determined But File Lacks Transfer Certificate. If a change of ownership has occurred and no transfer form (608) has been filed, try to get a transfer filed by either the former owner or new owner.

Important - until a transfer has been properly filed, instructions or amendments from new owners should not be used to alter a claim. Accept and document information by the new owner, but do not incorporate it until the transfer is received.

If a transfer certificate is not received and the new owner owns 100% of the right, add the following remark to the claim file.

Example: 050 OW51AS OF MM/DD/YY, THIS WATER RIGHT APPEARS TO BE OWNED BY JOHN L. AND JANE W. DOE, 5793 BOXWOOD DR, BOZEMAN, MT 59715.

4. Extended Claim Identification Numbers. As water rights involving proportional transfer will not be split until after final decree, the extended ID number for claims being examined should be 00. However, some claims with proportional transfers may have already been split in the computer data base, and have an extended ID number greater than 00. These types of proportional claims should be recombined. Send all claims for which splits have been made, to the records section for recombination.

Claims with proportional transfers are split on the flow chart in the claim file. The extended ID number from the flow chart may be referred to for purposes of further transfers, either split or whole.

E. TERMINATION OF A CLAIM

A terminated claim is one withdrawn from the decree process by the claimant. A terminated claim's ID number will have an "O" prefix. It will be acknowledged in the decree with a statement noting it was withdrawn from the adjudication process.

Claimants have withdrawn claims for numerous reasons. The most common is that the claim represents an intent to develop water in the future.

1. Request To Withdraw Claim. The request must be in writing, dated, and contain the notarized signatures of all current owners of the right as listed in the department records. The request may also contain the reason(s) for the withdrawal. This information may be in letter or affidavit form. It is preferred that the water court form be used. See Figure XI-8, "Request to Withdraw Statement of Claim." If there are deficiencies, contact the claimant.

When a new owner not listed in the department records requests to terminate one or more claims and retain other water rights, a Form 608, Notice of Transfer, must be completed. However, if the new owner has only claims and requests to withdraw all of them, an amendment form can be completed in lieu of a Form 608. No fee is required. A copy of the deed showing ownership must be attached to the amendment. The amendment and deed should be attached to the withdrawal request.

2. Processing Withdrawn Claims.

a. Withdrawals Received Before Or During Basin Examination. Requests to withdraw claims received prior to or during basin examination will be checked for completeness as required above. Complete the following steps.

- Stamp the withdrawal request with the date of receipt.
- Change the ID number prefix on the examination worksheet from "W" to "O" (or "Z" to "J") and add the following remark to the decree abstract (claim ID on code sheet must also be an "O"). The date in the remark will be when the request was received by the department.

Example: T5 TC01THIS CLAIM WAS WITHDRAWN FROM THE ADJUDICATION PROCESS AT THE REQUEST OF THE CLAIMANT ON MM/DD/YY.

- When claims have been withdrawn because of duplication or replaced by another water right, also add the following remark to the decree abstract to clarify the termination.

Examples: G24 GI01THIS CLAIMED WATER RIGHT HAS BEEN WITHDRAWN AS IT WAS DUPLICATED BY WATER RIGHT NO. W000000-00.

FIGURE XI-8

REQUEST TO WITHDRAW STATEMENT OF CLAIM

STATE OF MONTANA

County of _____

I, _____

hereby request the withdrawal of my Statement of Claim, number

_____.

The reason for this request is:

_____ I have an existing right which is exempt from filing.

_____ This claim was for a use of water after July 1, 1973.

_____ I have no existing water right to claim.

_____ Other:

Signature date

Signature date

Subscribed and sworn before me this ____ day of _____, 19__.

Notary Seal

Residing at _____

My commission expires _____

G25 GI01THIS CLAIMED WATER RIGHT HAS BEEN WITHDRAWN AND REPLACED BY WATER RIGHT NO. C000000-00.

- All unnecessary remarks; remarks relating to other claims (MU, SR); and remarks defining empty fields (FR01RUNOFF) should be deleted. Those remarks which should be retained are: TC, GI, CT, TR, OW, LC, MS, RM and ST.

Withdrawals received during basin examination should normally be retained and sent to the records section along with other examination materials when a batch is to be coded, filmed, and keypunched.

For withdrawals received before basin examination, send the withdrawal and all attachments to the records section with a short note indicating the claim should be terminated, and the materials microfilmed and stored in the claim file.

b. Withdrawals Received After Basin Examination And Before A Decree. It must be determined whether the request to withdraw can be processed without delaying the issuance of the decree. Contact the program manager.

- If there is time, process the request as in section 2.a. above.
- If time is too short to get the termination into the decree, process the request as in 2.c. below.

c. Withdrawals Received After A Decree Is Issued. If a claim is withdrawn which is in a temporary preliminary or preliminary decree, immediately send written notification of the withdrawal request to the water court on regional office stationary. Request authorization to terminate the claim and enclose a copy of the withdrawal request. See Section XIII.E. for format of the notification to the water court. Route the memo through the Helena central office for review. After response from the court, send the claim to the program manager to be processed.

If a claim is withdrawn after final decree, send the original of the request to the program manager. It would be useful if the withdrawal form were accompanied by a short memorandum (directed to the file) explaining why the claim has been withdrawn, along with any other supporting data. The claim will be terminated, and the documentation microfilmed and stored with the claim file.

3. Previously Terminated Claims. Withdrawal procedures varied from 1979 to the present. Prior to June 29, 1982, some claims were terminated by the department because they were grossly incomplete, were filed on incorrect forms, or lacked the required filing fees. After a June 29, 1982 letter from the water court, no claims were terminated without the claimant's written authorization.

Many of the previously terminated claims were not entered into the computer data base. These will be given ID numbers and reinstated in the system. Worksheets will be generated and the files will be integrated into the respective basin. The terminated claims will be examined with the rest of the basin.

a. Determining Valid Terminations. The first step in examining a terminated claim is to determine if it was properly withdrawn. Requests meeting the following signature requirements are considered proper and can be examined as such. Additionally, requests must clearly indicate which claim is being withdrawn and must clearly indicate withdrawal.

- Prior to 3/30/83, the signatures of all current owners was required. The signatures did not need to be notarized.
- After 3/30/83, the notarized signatures of all current owners were required.
- Federal Agency Claims. A notarized signature is required for a withdrawal request submitted after 7/15/87. Prior to 7/15/87 a request to withdraw a claim by a federal agency should be notarized but will be considered valid if not notarized.

b. Processing Properly Terminated Claims. To process properly withdrawn claims, see section 2.a. above.

c. Processing Improperly Terminated Claims. For any claim found to have been terminated without meeting the requirements noted above, contact the claimant.

- If the claimant wishes to withdraw the claim, this may be done using the current procedure (see section E.1. above).
- If the claimant does not wish to withdraw the claim or cannot be contacted, the claim is not considered terminated. Change the ID prefix to "W". The claim will be examined as a normal claim using the relevant procedures for each element of the water right, e.g. purpose.

4. Decree Abstract Format. Terminated claims (those with an "O" prefix) will be printed in the decrees. An example of a terminated claim decree abstract is shown as Figure XI-9.

The decree abstract will look like other decreed rights but will have blank fields for priority date, flow rate, volume, maximum acres, period of use, and parcel acres. The computer will suppress all remarks except for the TC remark and any general information (GI) remarks.

Examples: TC01THIS CLAIM WAS WITHDRAWN FROM THE ADJUDICATION PROCESS
AT THE REQUEST OF THE CLAIMANT ON MM/DD/YY.

TEMPORARY PRELIMINARY DECREE
BOULDER RIVER TRIBUTARY OF JEFFERSON RIVER
BASIN 41E
ABSTRACT OF WATER RIGHT CLAIM

WATER RIGHT NUMBER 41E-0-101223-00

**** THIS WATER RIGHT CLAIM HAS BEEN TERMINATED ****

OWNERS: SCHMANSKY RANCH CO
P.O. BOX 9999
FLOODPLAIN MT 59000

PURPOSE (USE): IRRIGATION

SOURCE: SHORT CREEK

PRIORITY DATE:

FLOW RATE:

VOLUME:

MAXIMUM ACRES:

PERIOD OF USE:

POINT OF DIVERSION AND MEANS OF DIVERSION:

	LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY	MEANS
01				NWSEW	05	06N	07W	JEFFERSON	HEADGATE

PLACE OF USE FOR IRRIGATION:

REMARKS:

THIS CLAIMED WATER RIGHT HAS BEEN WITHDRAWN AS IT WAS
DUPLICATED BY CLAIM NO. W000000-00.

THIS CLAIM WAS WITHDRAWN FROM THE ADJUDICATION PROCESS
AT THE REQUEST OF THE CLAIMANT ON 09/21/82.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN YOUR NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY. UNLESS OBJECTED TO OR CALLED IN ON MOTION OF THE MONTANA WATER COURT IN THIS DECREE OR IN THE PRELIMINARY DECREE, THE ELEMENTS OF THIS CLAIMED WATER RIGHT WILL APPEAR IN THE FINAL DECREE AS SHOWN ON THIS ABSTRACT. (SEE SECTION 85-2-233, MONTANA CODE ANNOTATED.)

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN YOUR NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY. IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 879, BOZEMAN, MT 59771-0879.

GI01CLAIM NO. W000000-00 HAS BEEN WITHDRAWN AND REPLACED
BY CERTIFICATE NO. C999999-00.

5. Reinstatement Of Terminated Claim. Any time a request to reinstate a terminated claim is made, contact the water court. Prepare a memorandum (Figure XI-10) stating the reason for the request. Route the memo and complete claim file (including the "Request to Withdraw Statement of Claim" form and the claimants request to reinstate the claim) through the Helena central office for review.

If the water court authorizes the department to reinstate the claim, send the authorization and entire claim file to the records section supervisor with instructions to reinstate the claim and to either file the claim or return it to the regional office with an examination worksheet.

FIGURE XI-10

MEMORANDUM

TO: Montana Water Court

FROM: Marty Van Cleave, Water Resource Specialist

DATE: October 16, 1990

SUBJECT: Reinstatement of Claim No. 43D-W005255-00 requested
by C. Scott Holden

The above referenced claim was filed with the Department on January 10, 1982 by C. Scott Holden. On February 5, 1989 Mr. Holden signed a request to withdraw this claim, indicating he had no existing water right. On October 2, 1990, this office received a letter from Mr. Holden stating he would like to have the claim reinstated.

Enclosed is the complete file which includes the "Request to Withdraw Statement of Claim", and the letter from Mr. Holden.

Please notify this office if this claim can be reinstated. Thank you for your attention to this matter. If you need any additional information, please let me know.

Enclosures

F. CHANGE IN APPROPRIATION RIGHT

A change in appropriation right based on §85-2-402, MCA, is a change in the point diversion, place of use, purpose of use, or place of storage of a water right. This section briefly covers the processing of an Application for Change of Appropriation Water Right, Form 606 and discusses problems relating to examining the claim underlying a change. Changes can present a number of issues and complications for proper examination.

When a change in an appropriation right also involved a change in ownership, an Application to Sever or Sell Appropriation Water Right, Form 609 at one time was required. In September, 1986, the department discontinued using this form. Even though this form is no longer used, the procedures outlined in this section apply to both Form 606 and Form 609.

Ideally, the claim should reflect the water right as it existed prior to July 1, 1973. A separate change application file and computer record would reflect the change information. The two records should be clearly reference each other. The pre-1973 right will be examined, decreed, and subject to objections on its own merit. After the final decree, processing action will be taken concerning the change.

1. Processing Change Applications (Form 606).

Applications to change water rights (i.e., permit, certificate, claim, Powder River declaration, exempt right) are processed by the new appropriations staff. When an application for change is received in a basin currently being examined, the new appropriations staff will complete a flag for each claim involved and give it to the adjudication staff to be placed in the claim file. The flag will indicate that a change application has been received and is being processed. The purpose of the flag is to alert the examiner that a change application exists as the examination worksheet may have been printed prior to the application being received and thus may not have a change text (CT) remark.

When the change file is sent to Helena to be entered into the centralized records system, a CT remark will be added to the water right by the Helena central office staff. CT remarks have several possible formats to show the progress of a change application. See Figure XI-11. As the status of an application is altered (i.e., change received vs. change authorized vs. change completed vs. change revoked), the CT remark will be updated accordingly by the Helena central office staff.

If a change file or change target is in the claim folder and the worksheet does not reflect the CT remark, the records staff may be notified to request an updated worksheet. If an updated worksheet is not requested, make note of the change application on the old worksheet as a reminder to check the review abstract for proper CT remark.

FIGURE XI-11

CHANGE TEXT REMARKS

These remarks are added to the computer record of the water rights being changed (i.e., permit, certificate, claim, Powder River decree or exempt right) and the "G" record to identify the current status of an application or authorization to change. The change is referenced using a "CT", "MS", and/or "OW" remark code. Only "CT" and "OW" codes will be printed on the decree abstract of a claim.

WATER RIGHT RECORD REMARKS

1. Application received

CA01 CT01APPLICATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE RECEIVED MM/DD/YY. SEE G(W)084730-00.

2. Authorization issued

CA03 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE ISSUED MM/DD/YY. NOTICE OF COMPLETION DUE MM/DD/YY. SEE G(W)034572-00.

CA04 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION (16 GPM UP TO 12 ACRE-FEET) ISSUED MM/DD/YY. NOTICE OF COMPLETION DUE MM/DD/YY.

3. Completed authorizations

CA07 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE G(W)028371-00.

CA09 CT01AUTHORIZATION TO CHANGE POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION (16 GPM UP TO 12 ACRE-FEET) COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

When a sever/sell application is involved, a CT and OW remark are required.

(For total ownership change)
C95 CT01AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

FIGURE XI-11 (cont.)

O20 OW01SEVER/SELL RECEIVED MM/DD/YY PROCESSED TO CHANGE OWNERS.

(For proportional changes)

C100 CT01AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION, PLACE OF USE, PURPOSE, PLACE OF STORAGE OF A PORTION, 16 GPM UP TO 12 ACRE-FEET, COMPLETED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

O15 OW01SEVER/SELL RECEIVED MM/DD/YY PROCESSED TO ADD OWNERS. WATER RIGHT WILL BE SPLIT INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

4. Replacement well

CA11 CT01REPLACEMENT WELL - AUTHORIZATION TO CHANGE ISSUED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

CA13 CT01REPLACEMENT WELL - AUTHORIZATION TO CHANGE A PORTION 16 GPM UP TO 12 ACRE-FEET, ISSUED MM/DD/YY. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

5. Authorization revoked/terminated

M5 MS01AUTHORIZATION TO CHANGE ISSUED MM/DD/YY; REVOKED/TERMINATED MM/DD/YY. SEE T070116-00.

6. Application terminated/denied

M6 MS01APPLICATION TO CHANGE RECEIVED MM/DD/YY; TERMINATED/DENIED MM/DD/YY. SEE T073202-00/N123204-00.

"G" RECORD REMARKS

1. Replacement wells

CT01REPLACEMENT WELL.

2. Multiple right changes

CT01APPLICATION FOR CHANGE ALSO APPLIES TO 99X-W888888, 99X-W777777, 99X-W666666. (Lists all rights.)

Change applications are given a "G" identification code. The number assigned to the application will be the same number as the water right being changed. If multiple water are being changed, the number assigned will be the lowest numbered water right.

Change files are not microfilmed until after the change authorization has been issued. For Authorizations issued on multiple rights, the processing unit will place a flag in all but the "G" fiche referring to the location of the Authorization information.

Revoked authorizations will get a new number assigned to them that does not correspond to the water right. This new terminated ("T") number will contain the information about the revocation. The Authorization information that was under the water right number will be removed and stored under the "T" number. The processing unit will place a flag in the "G" microfiche referring to the new "T" number and where all information on the Revoked Authorization can be found. A flag will also go into each water right if the Authorization applied to multiple rights. Applications terminated before they are authorized will follow the same procedures as those revoked after authorization.

2. Post-'73 Changes To Pre-'73 Rights. These can be divided into two groups: those for which an Application for Change, Form 606, was filed, and those for which a 606 was not filed.

a. Post-'73 Changes For Which No 606 Was Filed. These instances will only be identified through pertinent issue remarks as each claim in the basin is examined. Sometimes documentation will indicate a post-June 30, 1973 change. Sometimes the aerial photographs will show evidence of a post-June 30, 1973 change.

b. Post-'73 Changes For Which A 606 Was Filed. Many 606s were filed before the related claim was filed. Efforts have been made to match the claim and 606. Because of errors or lack of detailed information in the claim file or change file or both, some 606s may have been matched with the wrong claim. The first step when examining the claim is to double check the 606/claim match.

3. Examining Claims With Changes. When reviewing a claim with an associated change, the status of the change should be denoted with a remark. Check the wording of the remark and, if necessary, change the wording to match the remark formats in Figure XI-10.

Check to see if the application or authorization indicates more than one past use. If more than one past use is indicated, check all claims belonging to the claimant to make sure the change has been properly identified (CT remarks on all associated claims). If certain claims were overlooked, send to the records section, a copy of the change application or authorization along with all related

worksheets and a cover memorandum explaining the situation. Records will correct the computer record and return updated worksheets.

a. Claim Shows The Right As It Was Before 1973 And File Contains A 606. In the past, completed changes have been incorporated into the claim computer record. If the examination worksheet shows the changed data, change the data on the worksheet to show the originally claimed information. Send the worksheet to the records section to be coded and request a new examination worksheet.

Review the claim and the change file. If they are in conflict, contact the claimant. If the correct information requires an amendment to the claim, follow directions under section XI.A., Amendments.

If the change file appears to be in error, document your findings in the claim file. Bring the problem to the attention of the new appropriations staff.

Examine the claim using relevant procedures for a pre-July 1, 1973 purpose as outlined in this manual. Add a change text (CT) remark to appear on the decree abstract. The text of the remark will depend upon the status of the Authorization. See Figure XI-11 for example "CT" remarks.

b. Claim Shows Post-'73 Changes And The File Contains A 606. Contact the claimant. Explain that it was intended for the claim to reflect pre-'73 information and the 606 was to show the post-'73 changes. Request information on the right as it existed before 7/1/73.

If the claimant amends the claim, proceed as in section 2.a. above. If the claimant does not wish to amend the claim to reflect pre-'73 data, two examinations will have to be done.

- Examine the claim as submitted.
- To the extent possible using the information available, determine what the right looked like before 7/1/73.

Add issue remarks to the department's examination report. The remark code and items addressed will vary with the situation. A change text (CT) remark must also appear to identify the status of the Application for Change.

Examples: P340 PL51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 PLACE OF USE WAS IN SEC 06 TWP 01N RGE 17E SWEET GRASS COUNTY.

P80 PD51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 POINT OF DIVERSION WAS IN THE NENENE SEC 10 TWP 12N RGE 03W LEWIS AND CLARK COUNTY.

**** PU51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS PRIOR TO JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 PURPOSE WAS MINING.

CT01 remark. (See Figure XI-11 for example "CT" remarks)

c. Claim Shows Post-'73 Changes, No 606 In File.

Contact the claimant. Explain that it was intended for the claim to reflect pre-'73 information. Request information on the right as it existed before 7/1/73. Also suggest that New Appropriations staff be contacted to submit an Application for Change.

If the claimant amends the claim to reflect pre-1973 use, proceed with normal claim examination.

If the claimant does not wish to amend the claim to reflect pre-'73 data, two examinations will have to be done.

- Examine the claim as submitted.
- To the extent possible using the information available, determine what the right looked like before 7/1/73.

Add issue remarks to the examination report. The items addressed and the remark code will vary with the situation.

Examples: P345 PL51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES A POST-JUNE 30, 1973 CHANGE IN PLACE OF USE.

P80 PD51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 POINT OF DIVERSION WAS IN THE NENENE SEC 10 TWP 12N RGE 03W LEWIS AND CLARK COUNTY.

**** PU51THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973. INFORMATION AVAILABLE INDICATES THE PRE-JULY 1, 1973 PURPOSE WAS MINING.

G. CLAIMS THAT PRESENT SPECIAL ISSUES

Some claims by the nature or size of water use involved may present issues that are beyond the scope of the standard procedures delineated in this manual.

Examples might include the storage facilities on the main stem of the Missouri River (e.g., Canyon Ferry Reservoir), irrigation claims for Hungry Horse Reservoir, major municipalities (e.g., Billings), large hydropower projects (e.g., Cochran Dam), and interstate or international diversions of water. Because these claims may have major affects on basins other than the basin being examined, these will be reviewed by the Program Manager.

Examine the claim to the extent possible. Consult the water resources specialist and regional manager in making the determination whether an individual claim fits in this category. The rule of thumb is that if the claimed appropriation has substantial interbasin water or policy impacts, the claim should be referred to the program manager.

XII. POST-EXAMINATION PROCEDURES

After claims have been examined, the examination materials are sent to the records section in Helena for entry into the data base. A review abstract is generated for each claim. The review abstracts and examination materials are returned to the regional office for review and filing in the original claim file. If the worksheet and review abstract for a claim are in agreement, the computer data is then ready for the department's summary report. If the review abstract and worksheet are not in agreement, corrections must be made to the review abstract and the above process repeated until all data are correctly input.

All examination materials will be microfilmed at one time after examination for the basin is complete. At that point all materials requiring filming will be pulled and sent to Helena.

The following sections outline the procedures involved in the final stage of basin examination.

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A. FINISHING STEPS

1. Coding Examination Materials. Corrections and changes to examination worksheets will be input into the computer by records section staff in Helena. Send examination materials in batches to the coding unit supervisor in Helena. Batches should not be sent more often than monthly, and should consist of at least one hundred worksheets. Sending batches on a regular basis is recommended to increase the efficiency of the coding staff by providing continuous work.

Following are general procedures for sending examination material to Helena. The filming of this material along with reservoir worksheets, interview reports, correspondence, questionnaires, etc., will occur later while the decree for the basin is being prepared.

- Pull the examination materials from the claim files and arrange the documents in the following order:
 - (1) Worksheet
 - (2) Addenda
 - (3) Code Sheets
 - (4) Amendments
- Make sure all examination materials have the claim number on it.
- Bind with one staple per claim file.
- Conduct final examination critique. See Figure XII-1. Correcting errors at this stage vastly reduces overall processing effort.
- Pack and organize examination materials numerically in boxes.
- Record on either Claim Log Sheet or computer claim log the date sent to Helena. It is suggested a copy of the claim log showing the claim material being sent be placed in the first box.
- Submit list of all claims involving interbasin transfers with the basin being examined to the records section supervisor, and to regional offices responsible for examining adjacent basins.

2. Filming Examination Materials. The filming of all examination materials for a basin will occur at one time. After all claims in the basin have been examined and while the decree abstracts are being prepared, the regional office will be requested to pull the examination worksheets, review abstracts, amendments, addenda, correspondence, etc., from each file and send this material

FIGURE XII-1

FINAL EXAMINATION CRITIQUE

WORKSHEETS Check that:

1. All crossed out information has something written in place of it. (Unless all or part of the element is to be deleted from the record.)
2. A checkmark or asterisk is in the left margin next to those elements where a change was made.
3. The reservoir 'on/off/R' code is identified with either a 'Y', 'N' or 'R'.
4. Worksheet is signed and dated.
5. The number of code sheets referenced in "Coding Sheets" at bottom of worksheet is correct.

REMARKS

1. Glance over code sheets to see that all necessary fields have been completed and the text is neat, and readable.
2. Check that abbreviated remarks are properly formatted.
3. Do not split words or numbers in the remarks.
4. Remarks with the same letter code (RN, CL, etc.) should
 - be numbered in sequence if one thought (RN01, RN02)
 - skip a number if each is a separate thought (RN01, RN03)

IRRIGATION

1. Total maximum acres = total parcel acres
2. Flow rate needed for
 - ditch systems not involving an onstream reservoir
 - sprinkler systems not involving an onstream reservoir
 - pump is primary diversion
3. Flow rate should be 0.00 on filed and use rights for
 - onstream reservoirs
 - direct flow water spreading systems (IR type = D)
 - natural subirrigation (IR type = N)
 - natural overflow (IR type = O)
4. Volume needed for
 - previously decreed volumes
 - water spreading systems
 - systems involving reservoirs

DOMESTIC

1. Check that number of households is listed.
2. Onstream reservoir flow rates should be 0.00.

STOCKWATER

1. Flow rate should be 0.00 for
 - instream direct
 - ditch diversions
 - onstream reservoirs
 - undeveloped springs
2. Volume should be 0.00 for all claims except U.S. government claims to pothole lakes and reservoirs
3. LS diversion - TRS for POU and POD should be equal.

to Helena for filming. This process will give the regional office an opportunity to discard unnecessary or duplicate information, such as review abstracts generated to correct punctuation or spelling errors. After filming, all materials will be returned to the regional office for filing.

Following are general guidelines for pulling examination materials to be filmed.

- Make sure all examination materials have the claim number on it.
- Arrange the documents in the following order:
 - i) Examination Worksheet
 - ii) Addenda
 - iii) Code Sheets
 - iv) Amendments
 - v) Interview reports, correspondence, questionnaires, reservoir worksheets, etc. (in chronological order)
 - vi) Review Abstract(s)
- Critique the supplemental documents
 - i) Check that all documents received through the mail or from the claimant during an interview have a date received stamp.
 - ii) Make sure all documents received from claimant, i.e. questionnaires, maps, affidavits have a claimant supplemental document stamp.
 - iii) All documents not already noted as being from the department should have a DNRC supplemental document stamp. Our letters and code sheets do not need to be stamped.
 - iv) If there is a completed reservoir worksheet, check for R75/R76 remark, and R55/R56 remark if capacity has been estimated, and the capacity, dam height, surface area.
- Bind with one staple per claim file.
- Pack and organize examination materials numerically in boxes.
- Record on either Claim Log Sheet or computer claim log the date sent to Helena. It is suggested a copy of the claim log showing the claim material being sent be placed in the first box.

B. RECORDS SECTION PROCEDURES

Following are procedures used by records section staff to process examination data and enter it into the department's centralized record system.

- All changes indicated on examination worksheets and amendments are entered directly into the data base (via software package). Data on code sheets are entered by the encoding unit staff or routed to the data entry section.
- Transactions are reviewed for errors and any corrections are made.
- Review abstracts are printed and reviewed for accuracy.
- Review abstracts, examination worksheets, and all related documents are returned to the regional office to check for correct data entry.
- Additional reviewing and coding are completed as necessary until all corrections have been made.

Filming of all examination materials for a basin will normally occur at one time after all claims in the basin have been examined. When the examination materials are received, they will be filmed in the order received. The front page of worksheet and all attached documents will be stamped 'filmed'. After filming, all materials will be returned to the regional office for filing.

C. REVIEW ABSTRACTS

When review abstracts are sent to the regional office, they should contain all updated information as shown on the examination worksheet, appropriate standards and feasibility checks. Compare the review abstract with the examination worksheet. This check ensures that changes by the reviewer and data entry by the records section staff have been done properly. Exhibit XII-1 is an example review abstract.

Checking the review abstracts relies largely on eye contact. Develop a systematic approach so items are not overlooked.

- Check that worksheet and review abstract claim numbers are the same.
- Check that corrections made on the examination worksheet appear on the review abstract.
 - Check that all remarks and data from code sheets added during examination were input accurately.
 - Check that remarks have proper codes (PU, FR, MA etc) and are printed in the proper place on the review abstract. For example, all flow rate related remarks should appear under Flow Rate.
 - Check for changed data which should not have been changed.
- Check that asterisks denoting changes have been added to changes requiring them.
- Check the Potential Error/Warnings Messages box on the last page of the abstract. The computer has been programmed to analyze several items for incomplete or inconsistent information. Figure XII-2 is a list of these checks.
- Keep an eye out for inconsistent or nonsensical claim information. This is the last time the department will make a comprehensive review of the claim before the decree is issued. The computer checks can't catch all possible errors. Without reexamining the whole claim, try to understand the individual right. The quality of your product reflects on you as well as the entire department. A well trained eye looking for inconsistent information goes a long way towards making a quality product.

Correct errors found on the review abstract directly on the abstract. Sign and date all abstracts in the area provided even if there are no errors on the review abstract. This documents the abstract has been checked.

FIGURE XII-2
POTENTIAL ERROR/WARNING MESSAGES

Messages identifying the following problems would be printed in a boxed area on each review abstract, when applicable.

A. OWNER

- A01. MISSING OWNER (NO MAIN OWNER)
"missing owner"
- A02. MISSING CITY/STATE/ZIP
"missing city"
"missing state"
"missing zip code"
- A03. DUPLICATE OWNER
"duplicate T owners"
"duplicate M owners"
"M owner same as T"

B. PURPOSE

- B01. MISSING PURPOSE
"missing purpose"
- B02. OTHER THAN ACCEPTABLE PURPOSE CODES
"invalid purpose code"
- B03. MORE THAN ONE PURPOSE
"more than one purpose: _____"
- B04. MISSING OR INVALID IRRIGATION TYPE WHEN THE PURPOSE IS IRRIGATION
"missing irrigation type"
"invalid irrigation type code"
- B05. TYPE OF IRRIGATION IS X, NO PU REMARK
"irrigation type is X, but no purpose remark"
- B06. NUMBER OF HOUSEHOLD > 0, USE NOT DM OR MD
"number of households = _____, use not DM or MD"

C. SOURCE

- C01. MISSING SOURCE NAME (DIVERSION RECORD) AND UNNAMED TRIBUTARY = N
"DV01 diversion with no source"
- C02. SOURCE NAMES ON DIVERSION RECORDS DON'T MATCH
"DV source names vary, DV03 = _____"
- C03. WELL RECORD WITH DIVERSION OR RESERVOIR RECORDS
"well with other diversions or reservoir"
- C04. WELL RECORD WITH TYPE CODE "S"
"source type = S, but source is well"
- C05. DIVERSION RECORD WITH TYPE CODE "G", EXCEPT WHEN ST REMARK = SP, SI, MP, NP
"source type = G, source name implies S"
- C06. SOURCE NAME SHOULD BE STREAM, RESERVOIR/LAKE NAME SHOULD BE DIFFERENT OR BLANK
"source name and reservoir/lake name are the same"
- C07. SOURCE TYPE REMARK WITH NO DIVERSION RECORD
"ST remark, no diversion record"

FIGURE XII-2 (cont.)

- C08. SOURCE TYPE REMARK MISSING SOURCE CODE NAME OR, OTHER THAN SI, SP, NP, MP, OR WS
"ST remark missing or invalid"
- C09. SURFACE WATER TYPE CODE FOR NATURAL OR CONTROLLED SUBIRRIGATION
"irrigation type = N or C, source type implies G"
- C10. SOURCE NAME SHOULD BE STREAM, SPRING, OR WELL
"'reservoir' or 'lake' in source name"
- C11. SOURCE NAME, UT = N, ST REMARK = SP, WS, SI, MP, NP
"ST remark, ut = N, source name, see figure VI-4"
- C12. BLANK SOURCE, UT = Y, ST REMARK = SP, WS, OR SI
"no source, ST remark, ut = Y, see figure VI-4"

D. PRIORITY DATE

- D01. MISSING/INCOMPLETE
"missing or incomplete priority date"
- D02. < 1860 OR > 1973
"priority date after June 30, 1973"
"priority date prior to 1860"
- D03. TYPE OF RIGHT MISSING
"type of right missing"
- D04. TYPE OF RIGHT OTHER THAN U, F, OR D
"type of right other than use, decreed, or filed"

E. FLOW RATE

- E01. MISSING FLOW UNITS
"missing flow rate units"
- E02. UNITS BUT NO FLOW
"units but no flow rate"
- E03. FLOW "KEEP" FLAG SET
"flow rate has a keep flag"
- E04. SHOULD BE NO FLOW FOR ONSTREAM RESERVOIR, EXCEPT DECREED RIGHTS
"flow rate value on onstream reservoir"
- E05. FLOW RATE ZERO FOR OFFSTREAM RESERVOIR
"flow rate zero on offstream reservoir"
- E06. ST-FLOW RATE VALUE, LS OR HG MEANS OF DIVERSION, TYPE = S
"error in rate or means, flow rate for LS or HG"
- E07. ST-FLOW RATE ZERO, EXCEPT FOR LS, HG, DT, DR, US MEANS OF DIVERSION, TYPE = S, NO ONSTREAM RESERVOIR
"error in rate or means, flow rate zero for other than LS or HG"
- E08. IR-FLOW RATE VALUE, TYPE OF IRRIGATION D (NO PUMP), N OR O
"flow rate value, but irrigation type = D, N, or O"
- E09. IR-FLOW RATE ZERO, EXCEPT IRRIG. TYPE D (NO PUMP), N OR O, OR, EXCEPT ONSTREAM RESERVOIR
"flow rate zero, but irrigation type not D, N, or O"
- E10. ST, DM, LG, MD-FLOW RATE > 35 GPM, AND NO (KEEP) FLAG
"flow rate > 35 gpm"
- E11. OT-FLOW RATE > 1 CFS
"flow rate > 1 CFS (448.8 GPM) for other use"

FIGURE XII-2 (cont.)

E12. ALL USES, FLOW RATE > 0 AND < 5 GPM OR < .02 CFS
"flow rate < 5 GPM"
"flow rate < .02 CFS"

F. VOLUME

F01. MISSING CLIMATIC AREA, USE IS IRRIGATION
"climatic area is missing"
F02. CLIMATIC AREA EXISTS, USE IS NOT IRRIGATION
"climatic area exists, use is not irrigation"
F03. VOLUME NOT FEASIBLE WITH FLOW (OR CALCULATED STD FLOW)
"volume not feasible with flow"
F04. VOLUME "KEEP" FLAG SET
"volume has a keep flag"
F05. VOLUME FOR ANY RESERVOIR, EXCEPTING 'R' RESERVOIRS AND
ST, MN, AND FP USES
"no volume, but claim has reservoir"
F06. WARNING - VOLUME ACHIEVED IN 5 DAYS
"volume can be achieved within 5 days"
F07. ST-VOLUME VALUE, NO USA OWNERSHIP, NO RESERVOIR RECORD
"volume value - check for USA ownership or reservoir"
F08. ST-VOLUME ZERO, OWNERSHIP IS USA, RESERVOIR RECORD
"volume zero - USA ownership and reservoir"
F09. IR-VOLUME VALUE, EXCEPT TYPE OF IRRIGATION D, EXCEPT
ON/OFFSTREAM RESERVOIR, OR EXCEPT DECREED RIGHTS
"volume value - not water spreading, reservoir, or decreed
right"
F10. IR-NO VOLUME FOR WATER SPREADING (D)
"volume missing for water spreading"
F11. IR-WATER SPREADING (D), ACRES > 0, VOLUME VALUE, < .5
AF/AC
"water spreading volume < .5 af/ac"
F12. DM, MD, LG USES, CLAIMED VOLUME GREATER THAN GUIDELINE AND
NO VM51-99 REMARK
"claimed volume > guideline of ____ af, no volume issue
remark"

G. MAX ACRES

G01. NOT EQUAL TO SUM OF PARCEL ACRES
"max acres not = sum of parcel acres"
G02. ZERO ACRES FOR IRRIGATION
"maximum claimed acres = zero"
G03. > 5 ACRES DM, LG OR MD USES
"maximum acres > 5 for DM, LG, or MD use"

H. PERIOD OF USE

H01. MISSING/UNRESOLVED
"unresolved period of use array"
"missing period of use"
H02. SPLIT PERIOD OF USE
"split period of use"

FIGURE XII-2 (cont.)

- H03. WARNING - YEAR-ROUND IRRIGATION, EXCEPT IRRIGATION TYPE D,
N, C, OR O
"year round irrigation"
- H04. PERIOD OF USE "KEEP" FLAG SET
"period of use has keep flag"
- H05. PERIOD OF USE IMPLIES YEAR-ROUND, ARRAY NOT 199999999997
"period of use implies jan 1 to dec 31"

I. POINT OF DIVERSION

- I01. MISSING DIVERSION (NO WELL OR NO DIVERSION RECORDS)
"missing point of diversion"
- I02. MISSING SECTION, TOWNSHIP, RANGE OR COUNTY
"DV01 missing township, range, and section"
"DV01 missing township"
"DV01 missing range"
"DV01 missing section"
"DV01 missing county"
- I03. INVALID COUNTY
"DV01 invalid county code"
- I04. BASIN OUTSIDE COUNTY PARAMETERS
"DV01 basin is not within county"
- I05. INVALID TOWNSHIP, RANGE, OR SECTION
"DV01 invalid township, range, or section"
- I06. COUNTY NOT WITHIN TOWNSHIP PARAMETERS
"DV01 invalid county or invalid twp-rge"

J. WELL

- J01. MISSING SECTION, TOWNSHIP, RANGE, OR COUNTY
"WL01 missing township, range, and section"
"WL01 missing township"
"WL01 missing range"
"WL01 missing section"
"WL01 missing county"
- J02. INVALID COUNTY
"WL01 invalid county code"
- J03. BASIN OUTSIDE COUNTY PARAMETERS
"WL01 basin is not within county"
- J04. INVALID TOWNSHIP, RANGE, OR SECTION
"WL01 invalid township, range, or section"
- J05. COUNTY NOT WITHIN TOWNSHIP PARAMETERS
"WL01 invalid county or invalid twp-rge"

K. MEANS OF DIVERSION

- K01. MISSING
"DV01 missing means of diversion"
- K02. DIVERSION CODE IS NOT A DESIGNATED CODE
"DV01 invalid means of diversion code"
- K03. DIVERSION MEANS IS XX, NO DM REMARK
"DV01 diversion means is XX - no DM remark"

FIGURE XII-2 (cont.)

- K04. NO RESERVOIR RECORD AND DIVERSION MEANS = DM, PT OR DP
 - "DV01 diversion means is DM, but no reservoir record"
 - "DV01 diversion means is PT, but no reservoir record"
 - "DV01 diversion means is DP, but no reservoir record"
- K05. DIVERSION CODE IS OBSOLETE VERIFICATION CODE
 - "DV01 unacceptable means of diversion code"

L. RESERVOIR

- L01. MISSING SECTION, TOWNSHIP, RANGE, OR COUNTY
 - "RS01 missing township, range, and section"
 - "RS01 missing township"
 - "RS01 missing range"
 - "RS01 missing section"
 - "RS01 missing county"
- L02. INVALID COUNTY
 - "RS01 invalid county code"
- L03. BASIN OUTSIDE COUNTY PARAMETERS
 - "RS01 basin is not within county"
- L04. INVALID TOWNSHIP, RANGE, OR SECTION
 - "RS01 invalid township, range, or section"
- L05. COUNTY NOT WITHIN TOWNSHIP PARAMETERS
 - "RS01 invalid county or invalid twp-rge"
- L06. RESERVOIR, DIVERSION MEANS NOT DM, PT, OR DP
 - "RS01 reservoir, DIV means other than DM, PT, or DP"
- L07. RESERVOIR NAME REMARK WITH NO RESERVOIR RECORD
 - "RN remark, no reservoir record"
- L08. 'R' RESERVOIR RECORD, NO RESERVOIR NAME
 - "RS01 R reservoir record, no reservoir name"
- L09. RESERVOIR RECORD BUT NO RN01-50 REMARK FOR VOLUME > 15 AF
 - "reservoir record, check for reservoir worksheet remark"

M. PLACE OF USE

- M01. MISSING SECTION, TOWNSHIP, RANGE, OR COUNTY
 - "PAR 001 missing township, range, and section"
 - "PAR 001 missing township"
 - "PAR 001 missing range"
 - "PAR 001 missing section"
 - "PAR 001 missing county"
- M02. INVALID COUNTY
 - "PAR 001 invalid county code"
- M03. BASIN OUTSIDE COUNTY PARAMETERS
 - "PAR 001 basin is not within county"
- M04. INVALID TOWNSHIP, RANGE OR SECTION
 - "PAR 001 invalid township, range or section"
- M05. COUNTY NOT WITHIN TOWNSHIP PARAMETERS
 - "PAR 001 invalid county or invalid twp-rge"
- M06. IRRIGATION, MISSING ACRES
 - "PAR 001 zero acres for irrigation"

FIGURE XII-2 (cont.)

- M07. PARCEL ACRES GREATER THAN 640
"PAR 001 parcel acres > 640"
PARCEL ACRES > 160/320 FOR ONE QUARTER SECTION DESCRIPTION
"PAR 001 400.00 acres NE - acres > 160 for 1 qtr sec desc"
"PAR 002 600.00 acres S2 - acres > 320 for 1 qtr sec desc"
PARCEL ACRES > 40 FOR TWO QUARTER SECTION DESCRIPTIONS
"PAR 001 60.00 acres NENE - acres > 40 for 2 qtr sec desc"
PARCEL ACRES > 10 FOR THREE QUARTER SECTION DESCRIPTIONS
"PAR 001 20.00 acres NENENE - acres > 10 for 3 qtr sec desc"
- M08. ACRES LISTED, NO IR, DM, MD, LG, CM OR MC USE.
"acres listed, use is not IR, DM, MD, LG, CM or MC"
- M09. NO PARCEL RECORDS
"missing entire place of use"

N. SUPPLEMENTAL RIGHTS

- N01. WATER RIGHT RELATED TO ITSELF
"suppl. rights: right related to itself"
- N02. MAXIMUM ACRES GRANTED > SUM OF ACRES
"suppl. rights: max granted acres > sum of rights"
- N03. MAXIMUM ACRES GRANTED < LARGEST INDIVIDUAL RIGHT
"suppl. rights: max granted acres < largest indiv. right"
- N04. WATER RIGHT IS BOTH MAIN AND SUPPLEMENTAL TO ANOTHER WATER RIGHT
"right is named in two supplemental relationships"
- N05. REFERENCE RIGHT HAS ZERO ACRES (MESSAGE ON ALL SUPPLEMENTAL RIGHTS)
"suppl. rights: max combined acres in ref. right = zero"
- N06. NON-W CLAIM INCLUDED IN SUPPLEMENTAL RIGHTS RELATIONSHIP
"suppl. rights: non-W claim reference not needed"
- N07. NON-IRRIGATION PURPOSE, MAIN OR SUPPLEMENTAL RIGHT
"suppl. right: W000000-00, non-irrigation purpose"

O. REMARKS

- O01. TR REMARK, NO TRANSFERRED OWNER
"transfer remark, but no transferred owner"
- O02. TRANSFERRED OWNER, NO TR REMARK
"transferred owner, but no TR remark"
- O03. PL51-99 REMARK, NO ONSTREAM RESERVOIR RECORD, USE IS DM, MD, CM, LG, MC, IR (EXCEPT D, N, & O IRRIGATION TYPES), NO FR51-99 REMARK
"PL issue remark, check for flow rate modification remark (F180)"
- O04. PL51-99 REMARK, SUPPLEMENTAL RIGHTS RELATIONSHIP, NO SR51-99 REMARK
"PL issue remark, check supplemental acre modification remark (S150)"
- O05. PL51-99 REMARK, USE IS LG, DM, MD, CM, MC, IR (TYPE D), IR (WITH RESERVOIR RECORD), NO VM51-99 REMARK
"PL issue remark, check for volume modification remark (V55)"

FIGURE XII-2 (cont.)

P. GENERAL

- P01. CLAIM ID IS "Z", NOT "J"
"claim on irrigation district (Z) form, id should be J"
- P02. NO DATE FOR WHEN CLAIM WAS RECEIVED BY DEPARTMENT
"no date received"
- P03. DATE RECEIVED HAS CONFLICT BETWEEN DAY AND MONTH
"date received - day not possible for month"
- P04. DATE RECEIVED SHOULD NOT BE BEFORE NOVEMBER 1979
"date received earlier than 11/79"

Q. TERMINATED CLAIMS

- Q01. TERMINATED CLAIM (O) WITH NO TC REMARK
"terminated claim, but no TC remark"
- Q02. TC REMARK, CLAIM ID IS "W"
"TC remark present, but claim ID not O"
- Q03. TERMINATED CLAIM (O) WITH FLOW RATE VALUE
"terminated claim, flow rate value"
- Q04. TERMINATED CLAIM (O) WITH FLOW RATE UNITS
"terminated claim, flow rate units"
- Q05. TERMINATED CLAIM (O) WITH VOLUME VALUE
"terminated claim volume value"
- Q06. TERMINATED CLAIM (O) WITH PRIORITY DATE
"terminated claim, priority date value"
- Q07. TERMINATED CLAIM (O) WITH PERIOD OF USE
"terminated claim, period of use value"
- Q08. TERMINATED CLAIM (O) WITH ACRES
"terminated claim, acres value"

Error message checks for terminated claims (O) should include only the following:

A (ALL), B1, C (ALL), I (ALL), J (ALL), K (ALL), L (ALL), M1-M3, M5, N6, O01 and O02, P1, Q (ALL).

After review abstracts for a batch have been checked, corrections can be input and new abstracts generated from the regional office. As an alternative, send abstracts with errors back to the records section. The changes will be entered into the data base. The abstracts with errors and new abstracts will be returned to the regional office for review. The corrected review abstracts can later be sent to the records section for filming.

Check the new abstract to ensure data entry has been done properly. If additional changes are needed, make corrections on the new review abstract and the above process is repeated until all data are correctly input.

Store the examination worksheet, any attachments, and review abstracts in the claim file. It is suggested that all examination materials and review abstracts for each file be organized and bound with one staple. This will make pulling this information later for filming easier. See "Post-Examination Procedures: Finishing Steps: Filming Examination Materials" for guidelines regarding the organization of this material.

D. REVIEW INDEXES

After all examination data for a basin has been entered into the computer data base, indexes will be used to further review and proof the data in the computer prior to printing the department's summary report to the water court. This review is useful for determining consistency and adherence to guidelines, and can locate potential problems which may have been overlooked during examination. The review will be conducted by the Helena central office staff with the assistance of the regional office.

As an index is reviewed, corrections and questions are noted directly on the index, and later are transcribed onto the uses index. After all indexes are reviewed, the various questions noted on the uses index are checked by reviewing the claim files. Any corrections to a claim are made on the review abstract and code sheets.

Once all corrections have been made, the review abstracts can be sent to the records section for input and filming. As an alternative, corrections can be input at the regional office and the review abstracts later sent to the records section for filming.

Following is a list of the available indexes along with their computer report names. Other indexes can be obtained by contacting the records section supervisor or the program manager. To ensure the correct index is generated, use the computer report name when requesting copies.

<u>Indexes</u>	<u>Computer Report Name</u>
1. Basin Analysis Chart	SRBSN
2. Late Claims Index	SRLATE
3. Terminated Claims Index	TCIX
4. Reserved Rights Index	UIX
5. Type Of Right Other Than F, U, or D	SRINIDX
6. Interbasin Transfer List	BSN####
7. Uses Index	SRUSES
8. Owner, Numerical Indexes	SRNEWIX
9. Source Index	SRCIX
10. Point of Diversion Index	PODIX2
11. Priority Date Index	PRTIX
12. Reservoir Index	RESIX
13. Index Of All Remarks	SRREMTYP
14. Related Rights Analysis	SRRLT/Z
15. Conveyance Facilities Index	SRDITCH
16. Feasible Volume Analysis	SRFEAS
17. Multiple Use Index	SRMUIX2
18. Springs Index	RXIXNOSG
19. Change Flag Indexes	SRZERO, SRNOZER
20. Potential Error/Warning Index	SRERROR
21. Name Variation Check	SROWNER
22. Owner/Water Right Listing	SROWNER#

A short description of each index and suggestions on what types of problems to check for when reviewing these indexes is given in the subsections below.

Additionally, as a basin goes from temporary preliminary to preliminary, or from preliminary to final, the various indexes will again be printed and reviewed. It is possible the water court, in requesting the records section to change information on claims, has created problems which previously did not exist. Errors may exist due to late claims or from Federal and Indian claims being included. Errors at this stage can only be corrected by the water court. By identifying and pointing out errors to the water court, the integrity of the computer data base as well as the entire adjudication process is enhanced.

1. Basin Analysis Chart. This is a chart giving a breakdown of the claims in a basin by type of right, type of use, and number of ownerships. Copies can be obtained by contacting the program manager.

2. Late Claims Index. This index is of all claims with a date received after April 30, 1982. The index is sorted by claim number and lists any LC and GA remarks. A separate report generated with this index includes missing received dates and pre-1979 received dates.

Use this index to check:

- date received was a working day
- a LC remark (L5) was added to each late claim
- date received and date in LC remark are the same

3. Terminated Claims Index. This index is of all terminated claims which are identified by an "0" ID code preceding the water right number. The index is sorted by claim number and lists all remarks.

Use this index to confirm:

- TC remark was added to each claim
- all unnecessary remarks have been deleted
(acceptable remarks are TC, GI, LC, TR, OW, CT, RM, ST and MS)
- values for flow rate, volume, acres, and period of use are zero

4. Reserved Rights Index. This index, sorted by claim number, lists all claims in the basin which have a "U" ID code preceding the water right number.

5. Type Of Right Other Than F, U, Or D. This index lists all claims where the type of historical right is not filed, use, or decreed. If the type of historical right is missing or the claim is for a Federal reserved right, etc., the claim number will be listed.

6. Interbasin Transfer List. This list is of all claims with ID numbers outside the basin which have been identified as an interbasin transfer with the basin being examined.

7. Uses Index. This extensive index provides a useful overview of the basin. It is sorted by use then by claim number and contains most information on a claim (flow rate, volume, acres, source, owner name, remarks). For irrigation, it also includes an analysis of flow rate and volume.

Use this index to identify:

- incorrect or improper type of irrigation codes
- incorrect or improper means of diversion codes
- flow rates which may or may not be needed
- volumes which may or may not be needed
- high or low flow rates with no corresponding issue remark
- high or low volumes with no corresponding issue remark
- IR - flow rates or volumes with PL issue remarks - check if issue remark (F180, V55) is necessary/needed
- IR - high gpm/acre flow rate - check if V37 issue remark is necessary
- volumes greater than 15 acre-feet with reservoir - check for reservoir worksheet remark
- CM, IN, IS, uses - check for PU01 remark to explain use

8. Owner, Number Indexes. The owner index is sorted alphabetically by owner name, then by claim number. The number index includes all claim numbers (including terminated claims), and is sorted numerically.

Use the Owner Index to identify:

- misspelled owner names
- missing or incorrect middle initials
- inconsistent corporation names
- name variations for a single owner
- improper owner type code ('C' -vs- 'I')

The Numerical Index is used to:

- account for all claims in the basin

9. Source Index. This index is sorted alphabetically by source name, then by point of diversion.

Use the Source Name Index to check for:

- missing source names
- misspelled source names
- improperly designated sources
(Five claims may call the source Long Coulee and another may call it Long Coulee Creek. These may be two separate sources.)
- lake or reservoir name listed as source
- use and filed rights on decreed streams°
- S/G code corresponds to source

°Used in combination with Uses index to check for possible priority date issue remark.

10. Point of Diversion Index. This index is sorted by township, range and section, then by claim number.

Use the Point of Diversion Index to identify:

- repeated POD's for a single claim which look questionable;
- missing quarter section
- missing section, township, or range
(Fields will appear as zeros. If basin is located in all northern or southern townships, or all eastern or western ranges, errors in N, S, E, W can be checked. Pay special attention to the beginning and end of the index and of each township as errors cluster there.)
- quarter section description less than $\frac{1}{4}$ (especially for point specific diversions such as pumps, wells, headgates, dams)
- invalid diversion methods

11. Priority Date Index. This index is sorted by priority date, then by claim number. A question mark (?) immediately following the priority date indicates an invalid date, e.g. 04/31/1888. An asterisk (*) next to the priority date means a change flag has been added to the priority date.

Use the Priority Date Index to identify:

- missing day, month, or year dates°
(fields will appear as zeros)
- post-July 1, 1973 dates°
- pre-1860 dates°
- dates preceding Indian cession°
- improperly standardized dates (e.g. 2/30/50)
- if '62 - '73 wells and springs have proper type of right, means of diversion or remarks°
- 12/31 dates without change flags (primarily use rights)
- last day of the month dates without change flags
(primarily use rights)

° Refer to the Uses or Remarks By Type index to check if a remark has been added to identify issue.

12. Reservoir Index. This index is sorted alphabetically by source name, then by legal land description.

Use this index to identify:

- onstream reservoirs where the point of diversion and reservoir legal land descriptions differ
- onstream reservoirs where the diversion method is other than DM or PT
- offstream reservoir where the diversion method is identified as DM or PT

- different claims for same reservoir but the legal land descriptions differ
- questionable reservoir names

13. Index Of All Remarks. This index contains all remarks for a basin and is sorted by remark type, then by claim number.

Use this index to:

- identify misspellings, inaccuracies, improper formats or poor wording
- ensure wording conforms to department standards
- cross reference claim numbers, miner's inches, case no. and county in decree exceeded remarks
- cross reference claim numbers in ownership remarks and other multiple claim remark statements
- check that no NR remarks exist
- 01 to 50 remarks should refer to 'water right' instead of 'claim'

Special attention should be paid to coined remarks; if there is doubt about the appropriateness of a remark text, contact the program manager.

Check remark code numbers to make sure decree abstract and department examination report remarks are properly denoted and located. If there is a question about where a remark belongs, contact the program manager.

14. Related Rights Analysis. This index is a listing of irrigation claims which are supplemental. The index is sorted numerically, by main right with the supplemental rights listed below. It also includes potential maximum acres error messages, and related owner name comments.

Use this index to identify:

- claims supplemental to themselves°
- blank or zero fields for acres°
- maximum combined acres greater than or equal to the sum of rights°
- maximum combined acres less than largest individual right°
- owner missing or not matching main right°°
- very small or very large acreage

° Double asterisk (**) and message under 'MAXIMUM GRANTED' will flag problem.

°° Double asterisk (**) and message in right hand margin will flag problem.

15. Conveyance Facilities Index. This index is sorted by source, then by ditch name. Claims with the same ditch name are then listed chronologically by priority date.

Use this index to confirm:

- ditches are named and spelled consistently
- points of diversion are consistent between claims using same diversion (An inconsistent point of diversion could mean either an incorrect ditch name or incorrect legal land description. Exceptions may include waste and seepage collected in ditch or pumping into ditch.)

16. Feasible Volume Analysis. This index is sorted by use, then by claim number. Only those claims which have a flow rate, volume, and period of use are listed. It also shows hours per day necessary for the flow rate to produce the volume.

Use this index to identify:

- unreasonable volumes, flow rates or periods of use°

° Refer to the Uses or Remarks By Type index to check if a remark has been added to identify the issue.

17. Multiple Use Index. This index is of all claims and is sorted by priority date, then by source and owner name. It includes the water right numbers contained in multiple use remarks.

Use this index to identify:

- missing multiple use remarks
- claims incorrectly included in a multiple use remark (different source, priority date, type of right or claim has been terminated)
- incomplete multiple use remark (not all numbers identified)
- incorrect claim number
- numbers identified have different diversion means
- possible duplicate, redundant or associated situations°
- missing decree exceeded remarks°

° Refer to the Uses or Remarks By Type index to check if a remark has been added.

18. Springs Index. This index identifies those claims where the source is a spring. It is sorted by number.

Review claim files for numbers listed to determine if:

- spring is developed or undeveloped
- source type code is correct
- means of diversion is accurate

19. Change Flag Indexes. These two indexes contain the same information (flow rate, volume, acres, diversion means, reservoir, source and owner name).

One index includes only those claims where the flow rate or volume equals .00 and a change flag has not been coded. This index

is designed to identify missing change flags on flow rates or volumes which were changed to .00 during examination.

The other index includes only those rights where the flow rate or volume is greater than .00 and a change flag has been coded. This index is designed to identify change flags inadvertently added during examination to flow rates and/or volumes which will be decreed. For example, a change flag associated to the volume of a domestic claim would be questionable.

20. Potential Error/Warning Index. The same errors listed on the review abstract (see Figure XII-2) is compiled into an index for an entire basin by water right number. The potential error/warning messages are identified as to the record involved, i.e., owner, diversion number, etc. Pertinent values may also be printed, e.g., acre-feet per acre, township direction, or unmatched source names.

21. Name Variation Check. This index is sorted alphabetically by owner name and includes only owner names and addresses. It includes all owners in the basin, i.e. both claims and new appropriations. It allows a review for inconsistencies in names and addresses prior to basin wide mailings to reduce returned mail.

22. Owner/Water Right Listing. This index is sorted alphabetically by owner name and includes all water right owners in the basin, i.e., claims, permits, certificates etc. Every owner name and address is printed along with the water right ID number(s) of every computer water right record it is stored in. This allows a review for inconsistencies in names and addresses prior to basinwide mailings to reduce returned mail. The ID numbers allow for researching inconsistencies.

E. STANDARDS

Computerized standards are applied to a basin when all review abstracts have been corrected and just prior to printing the department's summary report. The standards program permanently

- changes flow rates and volumes based on certain specific criteria;
- renumbers parcel records consecutively;
- changes flow rates in diversion and purpose records to match water right record; and,
- changes the period of diversion in diversion records to match purpose records.

Exhibit XII-2 is a breakdown of standards activity the computer is programmed to execute.

At the same time standards are applied, the Potential Error/Warning index may be rerun. If this index is rerun, it will be sent to the regional office for evaluation and correction prior to printing the review copy of a decree. It includes, by claim number, any error/warning messages found by the computer checks as shown in Figure XII-2. Correcting errors at this stage enhances the integrity of the computer data base.

After standards have been applied to a basin, two indexes will be generated to document standards which have been applied. A short description of these two indexes is as follows.

- Standards Field Update Report. This index, sorted by claim number, lists all claims in the basin. The claimed values for flow rate, volume, period of use, and acres are listed. If a standard has been applied, the new value is shown.
- Claims With Errors - No Standard Applied. This index lists claims where a standard might be applied but could not. The reason why the standard was not applied is listed. Review abstracts for these claims should be sent to the Records Section Supervisor so standards can be applied either automatically or manually.

F. DEPARTMENT'S SUMMARY REPORT

The department's summary report (Exhibit XII-3) is comprised of two parts: Part A: "Abstract of Water Right" and Part B: "Examination Report". The report is bound into books and sent to the water court for review before the decree is issued. The regional office is also sent a copy to review and for reference in case the water court has questions. Decree indexes may also be printed.

By this time the chief water judge may have assigned a water master to the basin. The water master may call with questions regarding the summary report. When this occurs, a courteous and professional relationship with the water master will facilitate a more efficient and effective review.

After the decree for a basin is issued, the regional office may discard their summary report. A microfiche copy and a computer tape which can be used to print additional copies of the report are retained in the Helena central office.

1. Review Procedure. This is the last chance to make corrections before the decree is issued. Check the indexes for any errors and inconsistencies, including the Potential Error/Warning index which may also be provided at this time. Most of the errors should already have been corrected, but it is a good idea to check the indexes again.

2. Making Corrections To Summary Report. When errors are discovered **after** the summary report has been sent to the water court, follow the procedures outlined below.

- Make corrections on a photocopy of the summary report. Depending on the complexity of the issues involved, include a memo explaining the corrections.
- Send the corrected abstract along with any supplemental documents to the program manager for review. If the program manager finds problems, these will be discussed with the regional office.
- The necessary corrections will be made and an updated summary report abstract sent to the water court.
- The materials and updated summary report abstract will be filmed and sent to the regional office.

For amendments received **after** the summary report has been sent to the water court, see "Special Provisions: Amended Claims".

XIII. (TEMPORARY) PRELIMINARY DECREE

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A. GENERAL DISCUSSION

After the water court has completed its review of the department's summary report and any requested changes are completed for the basin, a (temporary) preliminary decree will be issued.

The department's summary report is not issued as part of the decree. However, a hard copy or microfiche copy is available upon request at the Helena central office.

Issuance of a decree is a cooperative process between the water court and department records section staff. The water court provides the Notices of Availability and Findings of Fact and Conclusions of Law. The department provides decree abstracts, decree indexes, microfilm, and mailing supplies.

There are two types of water right decree abstracts -- a public copy and an owner copy.

- The public copy is bound into decree books and delivered to the water court, clerks of court, department offices, and anyone purchasing a complete decree. The decree books contain all claims in the basin organized by claim number on numbered pages.
- The owner abstract is the same as the public copy except that the name of the owner the abstract is printed for is listed on each abstract. A separate abstract is generated for and mailed to each owner of the right. The printing is in owner name order. Pages are not numbered. In this printing, individual rights are separated to be mailed along with a Notice of Availability.

When a decree is issued, all individuals listed as current owners of record in the computer are sent decree abstracts for their water rights. Also, every water right owner in the computer record for the basin, whether they have claims, new appropriations or reservations, is sent a Notice of Availability. In addition, a notice is sent to all interested parties.

Each clerk of court within the basin is sent a complete printed or microfiche copy of the (temporary) preliminary decree which includes abstracts, findings, conclusions, and indexes. The water court, the records section, and local regional offices also receive copies of the decree, findings, conclusions, and indexes. The water court, local regional office, records section and one designated clerk of court also receives updated microfiche of each individual water right claim in the basin.

The Notice of Availability specifies who receives specific information and provides addresses and phone numbers of all involved offices. Check the notice to make sure that regional office phone numbers and addresses are correct.

It is a good idea to visit each clerk of court in the basin to make sure they have received all decree materials and to answer questions on their use. Let the clerks of court know that you are available to help them with problems of a mechanical nature, but that all questions of a legal nature should be directed to the water court.

A 180-day objection period is set by statute. By petition the water court may grant an extension of time. During this period, regional office personnel can expect questions related to the decrees and summary reports. Remember our role is limited. Observe relevant water court orders and department policies, discussed in "Assistance Supplied To Public" below, in all public contact.

Upon close of the objection period, the regional office should return all claim files for the basin to the records section for storage in archives. A copy of the decree and indexes should be retained in the regional office.

Depending on objections received, the water court may order the regional office to provide certain information or conduct field investigations. The water court may also order regional office staff to appear at a hearing. The plaintiff or defendant may require (subpoena) regional office staff to testify. Guidelines and policy covering these situations is in the "DNRC Objection Policy And Procedures Manual".

B. EXAMPLE ABSTRACT, NOTICE OF AVAILABILITY, INDEX

1. Abstract. Exhibit XIII-1 is an example format of a water right abstract in the (temporary) preliminary decree. It is how a water right appears in the decree by claim number and page number.

2. Notice Of Availability. Exhibit XIII-2 is an example of the Notice of Availability. Every water right owner of record in a basin, those with claims, new appropriations, or reservations, will receive this form. In addition, the notice is sent to various interested parties as specified by court order.

3. Indexes. Each complete copy of a decree have a set of six indexes. The indexes are:

- source
- owner name
- point of diversion
- priority date
- water right ID number
- issues

The first five indexes contain the same information but are arranged in different orders. The issues index is arranged by water right number and contains unresolved issues identified through department examination or by the water court in resolving objections to a previous decree. See Exhibit XIII-3 for examples.

Exhibit XIII-4 is a set of instructions explaining how to use the decree indexes. The instructions explain how the indexes are organized and what information each index provides. Instructions are attached to each set of indexes sent to the clerk of court, water court, department records section, and regional offices.

Other indexes, such as a conveyance facilities index, can be provided to the regional office upon request.

C. ASSISTANCE SUPPLIED TO PUBLIC

1. Guidelines. From issuance of the (temporary) preliminary decree through final decree, regional office personnel can expect questions related to the decree. Carefully read Judge Lessley's letter and Order (Figure XIII-1) to regional office personnel. These documents establish the framework for decree related public assistance.

Assistance to the public should be limited to locating requested data and if necessary "translating" the data. Answers to questions such as "What happens next?" or "What should I do now?" should be limited to procedural steps designated in statute or guidelines provided in the Court's Notice of Availability. Do not provide technical expertise, legal advice or consultation services.

2. Materials Available. All department records pertaining to the adjudication of water rights are public records and open to inspection by any person. Figure XIII-2 lists the various materials which may help the public understand the decrees. It is suggested this figure be on display wherever the public will be reviewing the decree and summary report.

3. Public Review Of Individual Claims. Claimants or their representative may wish to examine individual claims and related materials. In general, "claim" means the original claim and attachments as submitted by the claimant plus the examination worksheet, code sheets, etc. that would be in each claim folder. "Related materials" means pertinent topographic maps, old and new aerial photographs, etc. that are part of the regional office general resource materials.

The original documents which make up the claim are irreplaceable. Each time they are handled the potential exists for them to be lost or damaged. Even though claims are part of the public record, the water court's policy is to keep their handling to a minimum, and to take all practical precautions for their safekeeping. The recommended procedure for accomplishing this is as follows.

- People wishing to review claims should be encouraged to do their initial review from microfiche. It is available in several locations and can be replaced if necessary.
- After reviewing the fiche, any documents which cannot be read or which do not make acceptable copies from a reader-printer, may be examined in their original form.
- UNDER NO CIRCUMSTANCES MAY ANY ORIGINAL CLAIM FILE OR PART THEREOF BE REMOVED FROM THE REGIONAL OFFICE. Original claim files may only be examined in the regional office under close supervision. Rather than hand the entire original file to someone, it is best to photocopy the pertinent portions for review.

FIGURE XIII-1

**TRANSCRIPTION OF
JUDGE LESSLEY'S LETTER
AND ORDER**

Montana
Water Courts
Telephone (406)586-4364

To Personnel of DNRC Water Rights Field Office:

People with water claims can get excited when their Preliminary Decree is issued!

It is natural that they come to you. But the situation has changed. It is now in formal Court situation.

I don't want any of you to be embarrassed by being brought into Court for testimony about what you did or did not say, (and you'd be surprised at the "change" of simple statements you have made on retelling - especially in a Court case.)

Nor do I want you to be charged by some lawyer with "practicing law."

You will have our Order.

Your answer to the claimant can be simple and safe. You can say, "We can't discuss the decrees of the water court with you, a water claimant. But you, the claimant, can call or write the Chief Water Judge W. W. Lessley, Post Office Box 879, Bozeman, MT 59715, for information.

You are entitled to this concern on our part. Don't try to read any complicated or devious meaning into this Order and letter - there "ain't none."

Sincerely,

W. W. Lessley,
Chief Water Judge

WWL/nf

FIGURE XIII-1 (cont.)

**TRANSCRIPTION OF
JUDGE LESSLEY'S LETTER
AND ORDER**

IN THE WATER COURTS OF THE STATE OF MONTANA
CONCERNING THE PRELIMINARY
DECREES AND OTHER DECREES
OF THE MONTANA WATER COURTS.

O R D E R

Our adjudication program is "on course" and on schedule. In the months ahead many Basins will be in the "objection period" of litigation. Water claimants will be concerned, will be seeking advice, and talking of their water rights in that Preliminary Decree as contrasted with their original claim they filed with this Court.

Once the Preliminary Decree with its abstracts is issued we are clearly in the legal phase, and even more important, "in Court" in the Water Courts of Montana.

It is unwise, confusing, improper, and illegal for field personnel to discuss, advise, or suggest procedures for claimants concerning the Preliminary Decree.

ORDERED, that all Field Personnel refrain from advising, suggesting, or commenting with water claimants about the merits of any Preliminary Decree.

ORDERED, that all inquiries written or oral, concerning a Preliminary Decree of the Water Courts of the State of Montana be referred to Chief Water Judge W. W. Lessley, Post Office Box 879, Bozeman, MT 59715.

This Order is concurred in by all the Water Judges, Robert M. Holter, Bernard W. Thomas, and Roy C. Rodeghiero.

DATED this 18th day of January, 1984.

signed

W. W. LESSLEY,
Chief Water Judge

FIGURE XIII-2

MATERIALS AVAILABLE FOR PUBLIC REVIEW

Decree

1. Judge's adoption Order
2. General Findings of Fact and Conclusions of Law
3. Judge's Memoranda
4. Indexes

Department's Summary Report

Notice of Availability

Supreme Court Water Right Claim Examination Rules

Examination Materials

1. Microfiche of claim files
2. Hard copy of claim files (if microfiche is inadequate)
3. USDA aerial photographs and mylar overlays
4. Topographic maps
5. Orthophotoquads
6. Decree exceeded index

Additional Regional Office Materials

1. Water Resources Survey books
2. Water Resources Survey field form microfiche
3. Water Resources Survey research data
4. Notice of Appropriation indexes
5. Decree Indexes
6. County groundwater (GW) records
7. Old aerial photographs
8. General Land Office survey plats (GLO's)
9. Montana statutes
10. Conveyance Facilities Indexes (optional)

D. RETURNED MAIL PROCEDURES

The returned mail procedures presented in this section apply to returned Notice of Entry of Temporary Preliminary Decree and Notice of Availability (decree notices), returned Notice that Objections Have Been Filed and Hearings Requested (objection notices), and returned Final Decree Notices.

Mail which cannot be delivered is returned to the Water Rights Bureau in Helena. Records section staff will sort the returned mail into groups. One group will be forwarded to the appropriate regional office to be researched. Records section will process two groups. The remaining groups will not be researched for adjudication purposes.

It is imperative returned mail sent to the regional office be researched, documented, and returned to the records section as soon as possible. The goal is to locate and notify claimants before:

- the end of the objection period (180 days) as stated in the decree notice, or
- the notice of intent to appear period (30 days) as stated in the objection notice. However, it is not critical if research exceeds the 30 day period, since individuals involved with this group do not have to file a notice in regard to their own right.

1. Records Section Procedures.

a. Owner Indexes. Prior to the issuance of a decree or objection list notice, owner indexes are used to facilitate the mailing. These same indexes are also used to document the processing of returned mail.

For decree notice returned mail, two indexes will be used:

- Current claim owners (SBIX)
- Current new appropriations owners (NAIX)

For objection notice returned mail, three indexes will be used:

- Current claim owners with individual objection notices (OBJIX)
- Current claim and new appropriations owners without individual objection notices (NONOBJIX)
- Transferred owners since decree issued (TRIX)
(with and without individual objection notices)

Put the indexes into a three ring binder. At the top of the index, add a legend to explain the different highlighters, checkmarks, asterisks, etc. See Figure XIII-3. When the returned mail procedures for a basin are complete, the indexes will be stored with the basin files.

FIGURE XIII-3

DECREE NOTICE RETURNED MAIL LEGEND

Index	Description Of Group	Symbol
SBIX	Group 1: SB Owners No Address Provided or Deceased	Highlight Pink = returned X = address coded XX = new owner found XXX = research dead end Deceased
	Group 2: SB Owners Address Provided	Highlight Pink = returned X = address coded
NAIX	Group 3: NA Owners Address Provided or Deceased	* = returned and address coded Deceased
	Group 4: NA Owners No Address Provided	✓ = returned and no address provided

OBJECTION NOTICE RETURNED MAIL LEGEND

Index	Description Of Group	Symbol
OBJIX	Group 1: SB Owners (w/ ind. obj. notice) No Address Provided or Deceased	Highlight Pink = returned X = address coded XX = new owner found XXX = research dead end Deceased
	Group 2: SB Owners (w/ ind. obj. notice) Address Provided	Highlight Pink = returned X = address coded
NONOBJIX	Group 3: SB & NA Owners (w/o ind. obj. notice) Address Provided or Deceased	* = returned and address coded Deceased
	Group 4: SB & NA Owners (w/o ind. obj. notice) No Address Provided	✓ = returned and no address provided
TRIX	Group 5: Past SB Owners	✓ = returned and no address provided

b. Decree Notice Returned Mail. Check that all manila envelopes have the "DNRC date received" stamp. If it is missing, stamp the date the envelope was received in the department underneath the postmark.

Note: Sometimes returned mail may be received which should have been returned to the Water Court (notices sent by the court to interested parties). If so, forward this mail to the Water Court.

Sort returned mail from the decree notices into the following four groups.

GROUP 1. Claim Owners ("M")

These will be manila envelopes where a forwarding **address has not been provided or where it indicates the owner is deceased**. These envelopes contain decree abstracts, the notice of availability, an address correction mailer and possibly other notices.

Highlight the owners name in **pink** on the SBIX index and on the mailing label. For deceased owners, write "deceased" next to the owners name on the index.

Once the bulk of the returned mail has been received and sorted, bundle the returned mail from this group and send to the regional office for research. Attach a "DO NOT STAMP RECEIVED" flag to the top. Process and send to the regional office subsequent batches of returned mail associated with this group.

GROUP 2. Claim Owners ("M")

These will be manila envelopes where a forwarding **address is provided**. These envelopes contain decree abstracts, the notice of availability, an address correction mailer and possibly other notices.

Highlight the owners name in **pink** and add a X to the left margin of the SBIX index to denote the change of address has been updated in the computer.

New Address Correction. Update the computer following the Owner Name/Address Standardization Manual. Write the lowest claim number in the upper right hand corner of the envelope and initial it to indicate coding has been done. Forward the material in the returned manila envelope to the new address. Film and file the original returned manila envelope in the claim number written in the upper right hand corner.

GROUP 3. New Appropriations Owners ("M")

These will be #10 white envelopes (4" x 9.5") where a

forwarding **address is provided or where it indicates the owner is deceased.** The mailing label will have a "NA" in the upper right hand corner. These envelopes contain a notice of availability, an address correction mailer and possibly other notices.

Add an asterisk (*) to the left margin of the NAIX index to denote the change of address has been updated in the computer. For deceased owners, write "deceased" next to the owners name on the index.

New Address Correction. See instructions for Group 2 above.

Deceased Owner. Update the computer following the Owner Name/Address Standardization Manual. Write the lowest active water right number in the upper right hand corner of the envelope and initial it to indicate coding has been done. Film and file the original returned envelope in the water right number written in the upper right hand corner.

GROUP 4. New Appropriations Owners ("M")

These will be #10 white envelopes where a forwarding **address has not been provided.** The mailing label will have a "NA" in the upper right hand corner. These envelopes contain a notice of availability, an address correction mailer and possibly other notices.

Add a checkmark (✓) to the left margin of the NAIX index to denote that these have been returned.

Returned mail from this group will not be researched for adjudication purposes. However, before discarding the group, check with the regional office manager. The manager may request this group be sent to the regional office to be researched for new appropriations data base enhancement.

c. Objection List Notice Returned Mail. Sort returned mail from the objection list notices into the following four groups.

Note: Sometimes returned mail may be received which should have been returned to the Water Court (notices sent by the court to interested parties). If so, forward this mail to the Water Court.

GROUP 1. Claim Owners ("M") With Individual Objection Notices

These will be in manila envelopes where a forwarding **address has not been provided or where it indicates the owner is deceased.** The mailing label will have "WRB-OBJ" in the upper right hand corner. These envelopes contain individual notices of objection, the basinwide notice of

objection, an address correction mailer and possibly other notices.

Highlight the owners name in **pink** on the OBJIX index and on the mailing label. For deceased owners, write "deceased" next to the owners name on the index.

Once the bulk of the returned mail has been received and sorted, bundle the returned mail from this group and send to the regional office for research. Attach a "DO NOT STAMP RECEIVED" flag to the top. Process and send to the regional office subsequent batches of returned mail associated with this group.

GROUP 2 Claim Owners ("M") With Individual Objection Notices

These will be manila envelopes where a forwarding **address is provided**. The mailing label will have "WRB-OBJ" in the upper right hand corner. These envelopes contain individual notices of objection, the basinwide notice of objection, an address correction mailer and possibly other notices.

Highlight the owners name in **pink** and add a X to the left margin of the OBJIX index to denote the change of address has been updated in the computer.

New Address Correction. Update the computer following the Owner Name/Address Standardization Manual. Write the lowest claim number in the upper right hand corner of the envelope and initial it to indicate coding has been done. Forward the material in the returned manila envelope to the new address. Film and file the original returned manila envelope in the claim number written in the upper right hand corner.

GROUP 3. Claim And New Appropriations Owners ("M") Without Individual Objection Notices

These will be #10 white envelopes (4" x 8.5") where a forwarding **address is provided or it indicates the owner is deceased**. The mailing label will have "WRB" in the upper right hand corner. These envelopes contain the basinwide notice of availability, an address correction mailer and possibly other notices.

Add an asterisk (*) to the left margin of the NONOBJIX index to denote the change of address has been updated in the computer. For deceased owners, write "deceased" next to the owners name on the index.

New Address Correction. See instructions for Group 2 above.

Deceased Owner. Update the computer following the Owner Name/Address Standardization Manual. Write the lowest active water right number in the upper right hand corner of the envelope and initial it to indicate coding has been done. Film and file the original returned envelope in the water right number written in the upper right hand corner.

GROUP 4. Claim And New Appropriations Owners ("M") Without Individual Objection Notices

These will be #10 white envelopes where a forwarding **address has not been provided.** The mailing label will state "WRB" in the upper right hand corner. These envelopes contain the basinwide notice of objection, an address correction mailer and possibly other notices.

Add a checkmark (✓) to the left margin of the NONOBJIX index to denote that these have been returned.

Returned mail from this group will not be researched for adjudication purposes. However, check with the regional office manager before this group is discarded. The manager may request this group be sent to the regional office to be researched for data base enhancement.

GROUP 5. Transferred Owners Since Decree Issued (with and without individual objection notices)

These will be either manila or #10 white envelopes where a forwarding **address has or has not been provided.** The mailing label will state "WRB-T" in the upper right hand corner. These envelopes contain the basinwide notice of objection, an address correction mailer and possibly other notices.

Add a checkmark (✓) to the left margin of the TRIX index to denote that these have been returned.

Returned mail from this group will not be researched for adjudication purposes.

New Address Correction. See instructions for Group 2 above.

Deceased Owner. See instructions for Group 3 above.

d. Processing Procedures. After returned mail from Group 1 is researched by the regional office, it will be returned to records and should be in three bundles (see part 2 below). To document completed processing and account for research efforts, use the conventions from Figure XIII-3 to mark the left margin of the indexes.

Address Changes. Address changes will be highlighted on the returned mail research record (Figure XIII-4). Update the computer using this information. Add a X to the left margin of the proper index to note the change to the data base.

Deceased Owners. Update the computer following the Owner Name/Address Standardization Manual. If trustee is listed, update accordingly. Write "deceased" next to the owner's name on the proper index. Add a X to the left margin of the index to note the change to the data base.

New Owners. When a new owner has been determined, add a XX to the left margin of the proper index.

Research Dead End. If the regional office was unable to determine either a new address or a new owner, add a XXX to the left margin of the proper index to note "dead end" research.

Film and file all material returned from the regional office. This will include the returned mail research record and the original returned envelope, and may include correspondence. After filming, send the returned mail material to where the files are located (water court, regional office, records management).

Check the index to confirm that all Group 1 returned mail (highlighted in pink) sent to the regional office has been returned and processed. If there is outstanding returned mail, call the regional office to find out when it will be returned.

2. Regional Office Research Procedures. Only returned mail associated to Group 1 (current claim owners) will be sent to the regional office to be researched.

Because of budgetary and manpower constraints, returned mail associated with Group 4 will not be researched for adjudication purposes, and will normally be discarded. However, depending on office workload, the regional manager may request this group be sent for research and data base enhancement.

a. Researching Returned Mail. Research returned mail for ownership and/or address changes as outlined below.

- Check regional office records for varying addresses on different filings, for example a 600 or 602. Call owner to verify ownership and/or correct address. Document the contact.
- Check area telephone directories. If owners are listed call to verify ownership. If the party is still the legal owner obtain the new address. Document the contact.
- Check co-owner or any other individuals referenced in the water right records. Contact any relevant party who may aid in determining current ownership and/or addresses. Document

the contact.

- Check local county assessor's office. This office usually has current ownership and address information. These records list the individuals to whom the property tax statements were mailed along with the property description. If these records match our ownership, document research findings. If the ownership does not match, continue research efforts.
- Check county plat books at the clerk and recorders office to determine current ownership and address. Document research findings.
- Deceased owners. Estates may not be resolved, therefore research should try to locate a trustee. Determine whether a change in ownership has occurred, or only a change of address is required, i.e., c/o trustee or personal representative. Document research findings.

NOTE: If during research it is determined a new owner is involved, they will be contacted as described below. However, a new address for the owner listed on the return envelope should also be pursued. As the owner listed on the return envelope may still have a vested interest in the water rights, it is important they also be contacted as described below.

b. Returned Mail Research Record Form. For each piece of returned mail, complete a **return mail research record form** (Figure XIII-4) to document information sources, research findings, and correspondence.

Only the lowest numbered claim within a common ownership will contain all documentation, e.g., returned mail research record form, original returned envelope, and correspondence. However, if research determines a new owner is involved, complete the last line on the form with the claim number containing all documentation and make a copy of the research record form for each water right in the returned envelope which is appurtenant to the new owners property.

New Address. Document and **highlight** this information under RESEARCH FINDINGS so records may code directly from the form.

New Ownership. If new ownership is determined, document the new owners name and address under RESEARCH FINDINGS but do not highlight. New ownership will only be updated upon receipt of a completed transfer certificate (Form 608).

New Address/Ownership Unresolved. If a new address and/or ownership cannot be determined, document the research efforts under RESEARCH FINDINGS, but do not highlight. Explain the information sources which were researched. Attach the returned envelope with contents to the research record form.

FIGURE XIII-4

WATER RIGHT NUMBER
(film and file)

DNRC RETURNED MAIL RESEARCH RECORD

Water Right No(s): _____

Owner(s) of Record: _____

Address of Record: _____

RESEARCH FINDINGS:

_____ Address Changed (document below or Change of Address form)
_____ Address Unconfirmed (document below)
_____ New Ownership (document below)
_____ Ownership Unconfirmed (document below)

SOURCES USED:

_____ Telephone. Party contacted: _____
_____ Field office water right records.
_____ Field office county records of present owners
_____ County Clerk & Recorder's tract books.
_____ County Appraiser (Dept. of Revenue, local office).
_____ County Surveyor's office.
_____ County Treasurer's office.
_____ County Assessor.
_____ Secretary of State for corporations.
_____ Other: _____

Information Sent to Researched Owner and Address; Date Sent: _____

_____ Letter (Exhibit _____)
_____ Change of Address Form
_____ Notice of Availability
_____ Notice of Objections
_____ Individual Objection Notice
_____ Water Right Transfer Certificate
_____ Abstracts
_____ Summary Reports

Reviewed by: _____ Date: _____

See claim file _____ for further information and documentation.

c. Processing Returned Mail. Once a new address and/or ownership is determined, material from the returned mail envelope will be forwarded as described below.

For new address, forward the material from the returned envelope in a new envelope. Attach the original returned envelope to the research record form.

For new ownership, mail the new owners copies of the material from the returned envelope, a transfer certificate, and a change of ownership letter (Exhibit XIII-5).

d. Finishing Steps. Once confident all forwarded mail has been received, send all researched returned mail to records section. The returned mail should be separated into three bundles.

- First bundle should contain the **highlighted** research records which need coding (updated addresses). Sort this bundle by ownership for coding purposes.
- Second bundle should contain returned mail where research found a new owner. Sort this bundle by numerical order.
Note: If a transfer is received from the new owner, it will be processed with other transfers.
- Third bundle should contain returned mail where research was inconclusive, i.e., dead end. Sort this bundle by numerical order.

e. Filing Procedures. Once the research information sent to records section is coded and filmed, it may be returned to the regional office for filing if the original claim files are at the office. File any documents returned from records with the respective claim file as follows:

- File the original returned mail materials in the reference file, normally the lowest claim number.
- File the individual research record copies in their respective claim files.

E. POST-DECREE REVISIONS

ERRORS FOUND IN DECREES

WITHOUT PROPER AUTHORITY, REGIONAL OFFICE OR CENTRAL OFFICE
STAFF MAY NOT CORRECT ERRORS IN DECREES USING DCPROD.

A decree is a legal document and may only be corrected by the water court. According to Supreme Court rule, changes to the computer record may only be made by the department after issuance of a decree in the following circumstances.

- As specifically ordered or directed in writing by the water court.
- In compliance with changes in appropriation rights (§85-2-402, MCA), and water right transfers (§85-2-421 through 85-2-426, MCA).

However, owner names and addresses have been corrected after a decree has been issued.

If an error is found in a decree, follows the procedures described below:

- If an error is found in the name or address, send a memorandum or a copy of the decree abstract showing the correction to the program manager or records section supervisor. Explain in the memorandum or on the decree abstract how the error was identified.
- If an error other than owner name or address is found and the objection period has not closed, send a copy of the decree abstract showing the correction to the program manager. If an explanation is needed, explain on the decree abstract or attach a memorandum. These errors will be sent to the water court as formal objections or as comments to the decree.
- If an error other than owner name or address is found and the objection period has closed, the water court must be notified in writing, by a memo or letter containing:
 - i) water right ID number and basin code
 - ii) water right elements that are incorrect
 - iii) corrections (which should be well supported)
 - iv) any documentation that may be helpful (maps, deed, etc.; do not include items already in the case or claim file.)
 - v) short discussion of how error was discovered
 - vi) copy of decree abstract with correction clearly made

All post-decree correspondence with the water court regarding

corrections to decrees must be routed through the Helena central office for approval. Attach a note stating that the memo should not be stamped with the date received. The memo will be reviewed, filmed and forwarded to the water court. An example letter is included as Figure XIII-4.

If the claimant decides to contact the water court directly, encourage them to send a copy of the correspondence to the department so it can be filmed. Being apprised of actions between the claimant and the water court may prevent confusion and possibly save time if a change application for that claim is submitted.

FIGURE XIII-5

DECREE ERROR NOTICE MEMO
(Use Regional Office Letterhead)

MEMORANDUM

TO: Montana Water Courts

FROM: Beth A. Stein, Water Resources Specialist

DATE: February 18, 1987

SUBJECT: 42L-W121796-00
Ernest and Peggy Tooke, Owners

During the routine processing of an Application For Change filed with the Department, an error was found on the decree abstract of 42L-W121796-00 in the final decree.

The place of use and point of diversion legal land descriptions for this water right are incorrect. Section 6, Township 3 North, Range 56 East, belongs to Paul and Althea Ringling, as shown on the enclosed deed. Mr. Ringling confirmed there is no well in the NW $\frac{1}{4}$ of Section 6, and, he believes the Tookes own Section 6 in Township 2 North, Range 56 East.

The claimant's map in the claim file, showing the well, is labeled Township 2 North. A comparison of the USGS quad map (copy enclosed) with their map further confirms the correct township as 2 North, not 3 North as claimed and decreed.

A photocopy of the final decree abstract showing the correction is enclosed for your reference. If it is determined that this is a clerical correction that should be made, please send an order to Jim Kindle, Records Section Supervisor, in Helena.

Thank you for your consideration in this matter.

BS:lp

Enclosures

WATER RIGHT CLAIMS EXAMINATION
MANUAL

EXHIBITS APPENDIX

ISSUED BY AND FOR
WATER RIGHTS BUREAU
WATER RESOURCES DIVISION
MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
LARRY HOLMAN, BUREAU CHIEF
BOB ARRINGTON, ADJUDICATION PROGRAM MANAGER
NOVEMBER, 1987

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EXHIBIT III-1 STANDARD ABBREVIATIONS

Measurement Abbreviations

AF	Acre-foot or acre-feet
AF/A	Acre-feet per acre
C	Cubic feet per second (on computer printout)
cfs	Cubic feet per second
ft	foot (feet)
g or G	Gallons (on computer printout)
gpd	Gallons per day
gpm	Gallons per minute
gpm/ac	Gallons per minute per acre
Ht	Height
in	Inches
MI	Miners Inch

Agency Abbreviations

ASCS	Agriculture Stabilization and Conservation Service (USDA)
BIA	Bureau of Indian Affairs (USDI)
BLM	Bureau of Land Management (USDI)
BuRec	Bureau of Reclamation (USDI)
DNRC	Department of Natural Resources and Conservation
EPA	Environmental Protection Agency
FS	Forest Service (USDA)
GLO	General Land Office
NPS	National Park Service (USDI)
RWRCC	Reserved Water Rights Compact Commission
SCS	Soil Conservation Service (USDA)
USDA	United States Department of Agriculture
USDI	United States Department of Interior
USGS	United States Geological Survey
WC	Water Court
YRCC	Yellowstone River Compact Commission

Other Abbreviations

C	Certificate (as part of water right number)
COS	Certificate of Survey
Cp	Claimant contact point
D	Decreed Right
DLC	Desert Land Claims
dvs	Diversion
e.g.	for example
Ext	Extended
F	Filed Right
FO	Field Office
G	Groundwater (on computer printout)

EXHIBIT III-1 (cont.)

Gen	Generate
GW	Groundwater
HES	Homestead Entry Survey
HP	Horsepower
i.e.	that is
ID	Identification
K	Acknowledgement (as part of water right number)
Lbry	Library
M	Current owners (on computer printout)
MCA	Montana Codes Annotated
MM/DD/YY	Month, day, and year
No.	Number
ownr	Owner
P	Permit (as part of water right number)
POD	Point of diversion
POU	Place of use
PRCL	Parcel
Purp	Purpose
PVC	Polyvinyl chloride (plastic)
Qtr sec	Quarter section
quad	Quadrangle
RCM	Revised Codes of Montana
Relt	Relation
Rge	Range
rmrk	Remark
rsrv	Reservoir
S	Surface water (on computer printout)
SB	Senate Bill
SB76	Senate Bill 76
Sec	Section
T	Original owners (on computer printout)
Trl	Trailer
TRS	Township, Range, Section
TWP	Township
U	Use Right
UT	Unnamed Tributary
W	Claim (as part of water right number)
WRS	Water Resources Survey

Owner Name and Address Abbreviations

See Exhibit IV-6, "Owner Name/Address Standards"

EXHIBIT III-4

SNYOPSIS OF ADJUDICATION PROGRESS FOR BASIN _____

Field Office: _____ Date: _____

1. Begin examination _____
2. Examination completed _____
3. Corrected worksheets to Records _____
4. Review abstracts from Records _____
5. Review abstract updates completed _____
6. Review copy of decree issued _____
7. Review copy corrections completed _____
8. Temporary preliminary decree issued _____
9. Objection deadline _____
10. Extension for objections _____
11. Preliminary decree _____
12. Objection deadline _____
13. Extension for objections _____
14. Final decree issued _____

Comments:

Personnel involved in examination: _____

EXHIBIT III-6 (cont.)

TOWNSHIP _____

RANGE _____

Section

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
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- 35
- 36

**EXHIBIT IV-3
IDENTIFICATION CODES**

STATUS OF WATER RIGHT CODE

A	application for permit received
B	received NOC (602)
C	certificate issued
D	declaration (Powder River)
E	exempt existing rights
F	terminated Powder River Declaration
G	application for change
H	approved change
I	public noticed application for permit
J	incomplete SB76 water right data not used
K	acknowledgment issued
L	application for reservation
M	approved reservation
N	denied application for permit
O	terminated (SB 76) claim
P	provisional permit issued
Q	temporary permit issued
R	completed plan portion of approval reservation
S	suspended new appropriation file
T	terminated new appropriation file
U	federal reserve claim
V	sever and sell
W	claim (SB 76) to water used prior to 7-1-1973
X	code reserved (SB-76)
Y	code reserved (SB-76)
Z	'subsidiary' irrigation district claim (SB 76)

Example: 42M-W333333-00 "W" is the ID status code.

ORIGIN OF WATER RIGHT CODE

D	decree (SB76)
F	filed (SB 76)
N	new use of water (on or after July 1, 1973)
P	Powder River adjudication
R	federal reservation (SB 76)
S	secretarial right (SB 76)
U	use right (SB 76)

EXHIBIT IV-3 (cont.)

USE CODES

AS	agricultural spraying
CM	commercial
DM	domestic
DW	dewatering
EC	erosion control
ED	exploratory drilling
FC	flood control
FP	fire protection
FR	fish raceways
FW	fish and wildlife
GP	geothermal, power generation
IN	industrial
IR	irrigation
IS	institutional
LG	lawn and garden
MC	municipal
MD	multiple domestic
MN	mining
NV	navigation
OF	oil well flooding
OT	observation and testing of groundwater aquifer
PA	pollution abatement
PG	power generation
RC	recreation
SC	sediment control
ST	stock
WI	wildlife

MEANS OF DIVERSION CODES

BK	bucket
DD	diversion dam without impoundment
DK	dikes (i.e., spreader dikes)
DM	dam with impoundment
DP	dam with pit
DR	drain ditch
DS	developed spring
DT	ditch
HG	headgate with ditch or pipeline
IG	infiltration gallery
IN	instream use
LS	livestock drinking directly from source
NO	natural overflow (natural flooding)
PL	pipeline
PM	pump (fuel, electric, hand, windmills, hydraulic rams)
PT	pit (sump)
SB	springbox
SI	natural subirrigation
US	undeveloped spring
XX	other (a 'DM' remark should be coded if used)

EXHIBIT IV-3 (cont.)

METHOD OF IRRIGATION CODES

D	water spreading
E	sprinkler/flood
F	flood
N	natural subirrigation
O	natural overflow (natural flooding)
S	sprinkler
X	other

"Verification" Process Codes (OBSOLETE)

A	sprinkler/furrow
B	border dike
C	contour ditch
G	ditch system of other type
H	furrow
I	furrow/flood
J	sprinkler/furrow/flood
M	multiple methods
P	parallel ditch

COUNTY CODES

BE	Beaverhead	MC	McCone
BH	Big Horn	ME	Meagher
BL	Blainer	MI	Mineral
BR	Broadwater	MS	Missoula
CA	Carbon	MU	Musselshell
CH	Chouteau	PA	Park
CR	Carter	PE	Petroleum
CS	Cascade	PH	Phillips
CU	Custer	PI	Prairie
DA	Daniels	PO	Pondera
DL	Deer Lodge	PR	Powder River
DW	Dawson	PW	Powell
FA	Fallon	RA	Ravalli
FE	Fergus	RI	Richland
FL	Flathead	RO	Roosevelt
GA	Gallatin	RS	Rosebud
GF	Garfield	SA	Sanders
GL	Glacier	SB	Silver Bow
GR	Granite	SG	Sweet Grass
GV	Golden Valley	SH	Sheridan
HI	Hill	ST	Stillwater
JB	Judith Basin	TE	Teton
JE	Jefferson	TO	Toole
LA	Lake	TR	Treasure
LC	Lewis and Clark	VA	Valley
LI	Liberty	WH	Wheatland
LN	Lincoln	WI	Wibaux
MA	Madison	YE	Yellowstone
		YP	Yellowstone Park

EXHIBIT IV-5
STANDARDIZED NUMERAL AND LETTER PRINTING FORMAT

0	Closed circle with no added identifying characteristic.
1	Single vertical bar, no added identifying characteristic.
2	No loop at bottom.
3	Curved lines, no straight top line.
4	Open top to reduce confusion with "9".
5	Vertical and top lines joined at right angle.
6	Loop closed at bottom to avoid confusion with zero or "b".
7	Crossbar used in Europe confused with letter "Z". Do not use crossbar.
8	Made with two circles adjoining vertically to avoid confusion with ampersand and dollar sign.
9	Straight leg.
A	Use of square top not supported by evidence of confusion.
B	Overhang top and bottom to reduce confusion with "8" or "13". Distinct center division required to avoid confusion with "D".
C	Some similarity to left parenthesis if curve is not deep enough.
D	Overhang top and bottom to reduce confusion with zero.
E	Avoid rounded left side is to reduce confusion with ampersand.
F	Similar to letter "E" above.
G	Strong serif reduces confusion with "C", "6", or zero.
H	Parallel sides.
I	Serifs top and bottom are standard.
J	Top serif reduces confusion with "U".
K	Slanting legs are joined at center.

EXHIBIT IV-5 (cont.)

L	No special convention.
M	Pointed tops, legs spread at bottom, center extends to bottom.
N	Parallel legs.
Ø	Virgule slanted right added to distinguish "0" from zero.
P	Overhang at top for consistency with "B", "D", and "R".
Q	No special convention.
R	Overhang at top for consistency with "B", "D", and "P".
S	Serif added at top to distinguish from "5" and dollar sign.
T	No special convention.
U	Clearly rounded bottom to distinguish from "V".
V	Clearly straight sides to distinguish from "U".
W	Center division extends to top. Avoid rounded bottom.
X	No special convention.
Y	Leg bisects angle formed by arms to avoid confusion with "4".
Z	Do not use European crossbar. Make angles sharp to avoid confusion with "2".

EXHIBIT IV-6
OWNER NAME CODING PROCEDURE

<u>Type</u>	<u>Coding Procedure</u>
The	at the beginning of a name "The" is not coded.
Et al	is ignored.
Mrs.	in parenthesis immediately after first name: John (Mrs)
Junior	Abbreviated "Jr". Follows last name by one space, preceded by a comma. (Smith, Jr)
Agent	code in the first line of the address.
Guardian	ward coded as owner; "Guardian" coded in first line of address (% John Smith, Guardian).
DBA (doing business as)	is ignored.
Towns and Cities	code name followed by "town of" or "city of" (Roy, Town of).
Trustee	if listed WITHOUT trust, code as Trust (see below). If listed WITH trust, is coded in the first line of the address (% First National Bank, Trustee).
Individual Trusts	coded last name, comma, first name, middle initial, Estate of and Estates Trust. (Smith, John J Estate of). Type code is "C".
Non-individual trusts	as seen (El-CI Stroms Trust).
Partnership	treat as a business. The word "partnership" is not coded unless it is a part of the name. Type code is "C".
Family Partnerships, Trusts, & Limited Partnerships	code last name, comma, type of entity. (Smith, Family Partnership). Type code is "C".
Co. & Inc. with a person's name	code as (Smith, John J Ranch Co) (Smith, John J. Inc.) Type code is "C".
Inc. with no last & 1st name	code straight across with no commas (Osco Drug Inc). Type code is "C".
Names such as Mc Neil, Van Oosen	code with no space (McNeil, VanOosen).

EXHIBIT IV-6 (cont.)

First name is an initial & initial is a first name code in the first name field (J John).

OWNER ADDRESS CODING PROCEDURE

Addresses are standardized. If the address is too long to fit in the first address line, it is divided at a natural division point and continued in the second address line. Canadian addresses are the only exceptions.

Canadian. In the case of Canadian addresses, the street address goes in the first address line. The city and province go in the second address line. "Canada" and the zip code go in the city line. Skip the state line and fill the US zip code field with zeros.

Below are listed the abbreviations to be used in addresses.

Address Abbreviations

To be abbreviated all the time (DO NOT use periods):

North	N	South	S
East	E	West	W
Northeast	NE	Northwest	NW
Southeast	SE	Southwest	SW
Drive	Dr	Road	Rd
Street	St	Lane	Ln
Avenue	Ave	Rural Route	Rr
General Delivery	Gen Del	Star Route	Star Rt
Highway	Hwy	Apartment #1	Apt 1
P.O. Box(*)	PO Box (*)	In C/o	%
Trail	Tr	Court	Ct
Square	Sq	Suite	Ste
Library	Lbry	Boulevard	Blvd
Building	Bldg		
First Street	1st St	Second Street	2nd St
Third Street	3rd St	Fourth Street	4th St

*NOTE: If address is listed just as "Box 1" the PO is not put in.

Abbreviations to be used only when more room is needed:

Trailer	Trl	Creek	Cr
Village	Vlg	Center	Ctr
Gulch	Glch	River	Rvr

EXHIBIT IV-8
QUESTIONNAIRE COVER LETTER
(Use Field Office Letterhead)

February 3, 1988

John Q. Wateruser
Bottomland Ranch
Floodplain, Montana 59999

RE: Claim No. 99Z-W999999-00

Dear Mr. Wateruser:

The Montana Water Court has begun the preliminary work necessary to issue a water right decree in the Bitterroot River basin. At the request of the court, the Department of Natural Resources and Conservation (DNRC) staff is reviewing all the water right claims in the basin for completeness and accuracy. Information gathered by DNRC will be sent to the Montana Water Court.

You can assist us in this review by completing the enclosed questionnaire. The questionnaire serves to gather additional facts and data regarding the status/and operation of your water right. With the information you provide, a more complete record of your water right will be established.

A copy of the water right claim that had been submitted to the court is enclosed. It may be helpful to review it. After reviewing the claim please complete and return the questionnaire to the Missoula Field Office within thirty (30) days of the receipt of this letter. If you cannot return the questionnaire within that time period, please let me know.

If you have any questions or need assistance, feel free to contact me at 721-4284. Thank you in advance for your cooperation.

Sincerely,

Al E. Quot
Water Rights Technician

Enclosure

NOTE: This is a candidate for mail merge on the Apple IIe if sent to a number of claimants simultaneously. Make format adjustments accordingly.

EXHIBIT IV-10
FINAL LETTER
(Use Field Office letterhead)

(DATE)

RE: Statement of Claim No./Nos. _____

Dear _____:

Your water rights are very important!

On _____, a letter (copy enclosed) was sent to you with a request concerning your water right/rights. The letter indicated that we needed to hear from you within thirty (30) days. As of today, we have not received a reply.

The Montana Water Courts have instructed the Department of Natural Resources and Conservation to examine the claims in your area in a timely manner. We cannot continue to hold up the adjudication process.

We are concerned that all water rights in the State of Montana are fully and accurately protected, and hope you will contact this office to make an appointment within thirty (30) days of your receipt of this letter. If you do not respond before _____ your water right/rights will be processed with what appears to be incorrect or inadequate information. Based on this information, your water right/rights may not be correctly represented when the decree for this basin is issued.

Please call the Havre Regional Office today at (406) 265-5516. Thank you.


Sincerely,

Joe Examiner
Water Resource Specialist

Enclosure

EXHIBIT IV-12
DNRC FIELD INVESTIGATION FORM

PART 1 -- GENERAL DATA

1.  Water Right Nos. _____
(Case No.) _____
2. Claimant (in data base) _____
A. Is current owner the same as claimant on SB76 claim? __Yes __No
B. If no, has a transfer been filed? __Yes __No
C. List current owner if different from claimant listed above
Name(s) _____
Address _____
City or Town _____
State _____ Zip Code _____ Phone _____
3. Person contacted for investigation same as claimant?
__ Yes __ No Explain _____

4. Person(s) accompanying investigator _____

5. Individual interviewed: __ Claimant __ Other (specify)
Name _____
Address _____
Relationship to land: __ Landowner __ Lessee __ Other (explain)

6. Aerial Photographs and Maps _____

PART 2 -- FIELD INVESTIGATION

1. Source of water _____
2. Purpose of use _____
3. Points of Diversion and Means of Diversion
- | QTR | SEC | TWP | RGE | COUNTY | MEANS |
|-----|-----|-----|-----|--------|-------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Describe size, operational status, etc.:

EXHIBIT IV-12 (cont.)

4. Storage

A. Reservoir located off-stream (away from source)? ☐ Yes ☐ No

B. If yes, give location: ☐ ¹/₄ ☐ ¹/₄ ☐ ¹/₄ Section
Township _____ N/S Range _____ E/W _____ County.

C. Total volume of pit _____. Compute as follows:

Surface area _____ x max depth _____ x 0.5 = _____ acre-feet
acres feet volume

Total volume of reservoir _____. Compute as follows:

Surface area _____ x maximum depth _____ x 0.4 = _____ acre-feet
acres feet volume

D. Dam Height _____ Free Board _____

E. Release other than spillway: ☐ Yes ☐ No

Release is _____ controlled _____ uncontrolled.

Is release operational? ☐ Yes ☐ No

Describe _____

F. Water has flowed over spillway ☐ Yes ☐ No

G. Describe operation: _____

5. Means of conveyance to place of use:

☐ pipeline ☐ ditch ☐ natural carrier ☐ other (explain)

Describe size, length, operational status, vegetation, etc: _____

6. Place of Use (see map)

A. Brief description of system:

B. Operational? ☐ Yes ☐ No

Date of last use (month, day, year): _____

C. Method of irrigation:

☐ Flood _____

☐ Sprinkler _____

☐ Other _____

D. Type of Crops: ☐ Alfalfa ☐ Pasture ☐ Other (explain)

EXHIBIT IV-12 (cont.)

7. Runoff or released water returns to the same watercourse?

_____ Yes _____ No (explain) _____

8. Period of Use: From _____ to _____ inclusive of each year

A. What is the average number of hours water is diverted per day? _____

B. What is the average number of days water is diverted per year? _____

9. Period of Diversion: From _____ to _____ inclusive of each year

10. Flow rate

A. Claimed _____

B. Guideline _____

C. Observed: _____ estimated _____
_____ measured _____

D. Comments _____

11. Volume

A. Claimed _____

B. Guideline _____

C. Observed: _____ estimated _____
_____ measured _____

D. Comments _____

12. Supplemental to other rights _____ Yes _____ No

Explain: _____

13. History of Development:

A. _____ Original Development _____ Change _____ Unknown

Additional comments (including reason for change and approximate dates)

B. Date development was started (if known) _____

C. Date development was completed (if known) _____

D. Date of first use (if known) _____

E. Priority date _____

F. Date of Water Resources Survey _____

Was this system operational? _____ Yes _____ No

G. Number of irrigated acres:

Claimed _____

Water Resources Survey _____

Observed _____

Maximum in any one year _____

Explain any differences _____

EXHIBIT IV-12 (cont.)

14. Water supply comments _____

15. General Comments

A. Soils _____

B. Topography _____

C. Slope _____

Investigator _____ Date _____

EXHIBIT IV-13
FIELD INVESTIGATION LOG

<u>NAME OF CLAIMANT(S)</u>	<u>CLAIM NUMBER(S)</u>	<u>CASE NUMBER(S)</u>	<u>REQUESTED BY</u>	<u>PURPOSE OF INVESTIGATION</u>	<u>DATE OF ORDER OR REQUEST</u>	<u>DATE OF INVESTIGATION</u>	<u>DATE REPORT DUE</u>	<u>DATE REPORT SENT AND TO WHOM</u>	<u>COMMENTS</u>
--------------------------------	----------------------------	---------------------------	-------------------------	-------------------------------------	---	----------------------------------	--------------------------------	---	-----------------

NOTE: It is suggested that 8 1/2" x 14" paper be used.

EXHIBIT IV-17

Claim # _____

PHOTOGRAPH MOUNTING AND LABELING FORMAT

PHOTOGRAPH

PHOTO # _____ TAKEN BY _____ DATE _____
DIRECTION OF VIEW _____
SUBJECT _____

PHOTOGRAPH

PHOTO # _____ TAKEN BY _____ DATE _____
DIRECTION OF VIEW _____
SUBJECT _____

EXHIBIT IV-17

Claim # _____

PHOTOGRAPH MOUNTING AND LABELING FORMAT

PHOTO # _____

TAKEN BY _____

DATE _____

DIRECTION OF VIEW _____

SUBJECT _____

PHOTO # _____

TAKEN BY _____

DATE _____

DIRECTION OF VIEW _____

SUBJECT _____

EXHIBIT IV-18
FIELD INVESTIGATION REPORT
EXAMPLES
(Use Field Office letterhead for first page)

TO: Constance Vigil, DNRC Legal Counsel

FROM: Al Dorigt, Water Right Technician

APPROVED BY: Larry Wholesome, Bureau Chief (if investigation
ordered by Water Court)
Simon Lagree, Field Manager (if investigation requested by Department's legal staff)

DATE: February 31, 1999

CLAIMS: 99Z-W000000-00 (Irrigation): John Q. Wateruser

INTRODUCTION

1. Who assigned the field investigation, and when was it assigned, date conducted, and by whom?
Example 1. Pursuant to a September 9, 1986 order from the Montana Water Court, a field investigation of claim 40A-W-201209 was conducted on September 17, 1986 by Al Dorigt of the Department of Natural Resources and Conservation (DNRC).
2. Purpose of field investigation.
Example 1. The purpose of this investigation was to identify and quantify the place of use, flow rate, and volume as requested by the Water Court. In addition, other claimed items were field checked for accuracy and feasibility.

Example 2. The purpose of this investigation was to evaluate the place of use, acres, flow rate, and volume as objected to by the DNRC and to field check other claimed information for accuracy and feasibility.
3. Sources of information used.
Example 1. This field inspection served as the primary source of data for the report. Other sources of information include the original claim file, the SCS aerial photo _____ (dated) _____, 1979, the _____ USGS Quadrangle map (19__), the 19__ _____ County Water Resource Survey, and interviews with the claimant. In addition, Mr. Derrick of the Deep Drilling Company in Bozeman supplied flow rate information about the pump.
4. Describe any preliminary contact with the claimant to set up an appointment. List all persons present during the inspection. **Example 1.** On September 11, 1986, all parties involved were contacted by certified letter to set up an appointment (Figure____). Present during the investigation were John Q.

EXHIBIT IV-18 (cont.)

Wateruser, the claimant; and Frank Speaks, her consultant. By prearrangement Conrad Barr and Robert Writ, attorneys for the claimant and objector respectively, were not present.

5. Closing paragraph to introduction.

Example 1. Information gathered pursuant to the DNRC's request for a field investigation is given below. Each element of a water right objected to by the DNRC is addressed. The other elements of the water right have been reviewed and are discussed if the on-site inspection or other data are inconsistent with that shown in the temporary preliminary decree, dated _____, 19____.

Example 2. Information gathered pursuant to the Water Court's request for a field investigation is given below. Although the investigation was limited by the Water Court to certain items, other elements of the water right have been reviewed and are discussed if the on-site inspection or other data are inconsistent with that shown in the temporary preliminary decree, dated _____, 19____.

DESCRIPTION OF SYSTEM

Example 1. (irrigation claim)

The system consists of diverting water from the Boulder River at the NEA SEA SWA, Section 11, TWP 02S, RGE 13E, Sweet Grass County. The water is then conveyed approximately 2 miles via the Skillman ditch to the claimed place of use to flood irrigate the hayland between the ditch and the Boulder River. Water is diverted from the Skillman ditch by 12 inch corrugated metal pipes with slide headgates into a contour ditch irrigation system. The claimed place of use slopes moderately to the river and the soil appears to consist of a cobbly loam (see Figure____).

Example 2. (commercial claim)

This water right is used at a combination cafe, motel, and trailer court business on 3 acres located five miles south of Twin Bridges in Section 6, TWP 06S, RGE 02W, Madison County (Figure____). The cafe has a seating capacity of 25. The motel has eight units, and the trailer park has ten spaces. The source of water is a well with a submersible pump as the means of diversion. [Burgers are 98¢, fries are greasy, beds are U-shaped and lumpy.]

Example 3. (fish and wildlife claim)

According to Peter McGee (co-owner) on or about January 25, 1979 an earthen dam was constructed across a small unnamed tributary to Meadow Creek. This instream impoundment structure consists of a 10-foot high dam which backs up less than A surface acre of water with a maximum depth of eight feet.

At the time of construction this reservoir was stocked with trout from the "old Emigrant hatchery". (No fish stocking permit was secured.) Peter McGee indicated that a few fish probably still exist in the pond, which is also utilized for stockwater.

The reservoir is located approximately ½ mile upstream from the confluence with Meadow Creek (see Figure____). A 10 inch diameter stand pipe in the reservoir acts as a capacity regulating structure and allows water to be routed through the dam and re-enter the historic creek channel.

EXHIBIT IV-18 (cont.)

Example 4. (domestic claim)

The system currently in place is a spring development that consists of four separate springs, each with a catchment basin. Water from each catchment basin flows into one 2100-foot, U inch plastic pipe which delivers the water to a collection box. An additional spring is located 50 feet southwest of a collection box where the water from all five springs is combined. A delivery line of U inch plastic pipe, 2600 feet in length, extends from the collection box to a 1000 gallon storage reservoir (see Figure____).

Two lines continue from the storage reservoir to two places of use. One line presently serves the Hauck residence (W-031038) and the other line served the old Ruben LaBaron house (W-006451), now owned by Sherry L. Gray. According to Mr. Hauck the line to the LaBaron house, although in good condition, was shut off in 1980 because the house is unoccupied.

Presently the system is utilizing only 2 of the 5 spring developments. The wooden catchment basins at springs 1, 2, and 3 (see Figure____) are presently dry, and the catchment basins have been destroyed. Mr. Hauck stated that springs 1, 2, and 3 have not been used since the mid-1950's. The wooden catchment basins at springs 4 and 5 are in poor condition but have water present on the surface. These two spring developments are still providing water to the collection box. The collection box and delivery line that leads to the 1000 gallon reservoir are in good condition.

RESULTS OF INVESTIGATION

Example 1 (irrigation claim)

Diversion:

The claimed and decreed point of diversion (P.O.D.) was for a reservoir with a dam as the means of diversion. Through the field investigation, the diversion means was found to be a dike. The P.O.D. legal land description observed was the same as that claimed and decreed. No reservoir or reservoir impoundment structure was found. Mr. Smith stated that a reservoir has never been associated with this diversion. The Valley County Water Resource Survey published in June of 1968, incorrectly refers to the diversion structure as a stock water reservoir. The 1959 aerial photos used in compiling the Valley County Water Resources Survey show water backed up behind the dike (see Figure ____), which was the reason for a reservoir being claimed and decreed.

The dike observed during the investigation was washed out. The claimant stated that the dike was already washed out when he purchased the property in 1972. Jordan Coulee appears to run in the original channel through the dike, with no water being diverted by the dike. There are sagebrush and numerous prairie grasses growing in the stream channel. No visible water marks could be seen.

Example 2 (irrigation claim)

Flow Rate:

The claimed flow rate was 4.0 cfs. In the Temporary Preliminary Decree this was reduced to 3.6 cfs through application of the 17 gpm/acre Water Court standard. Due to low streamflows, no diversion was taking place during the investigations, and no flow rate measurements were made. Mr. Warp estimated that the three ditches could each convey up to 1.5 cfs. It should be noted that the source is an intermittent stream. Mr. Warp stated that some years it has been necessary to divert water at a greater than normal rate because of the shortened period during which water was available.

EXHIBIT IV-18 (cont.)

Example 3 (commercial claim)

Flow Rate:

The claimed and decreed flow rate was for 20 gallons per minute (gpm). This flow rate figure was based on pump test data provided on GW4 "Declaration of Vested Groundwater Rights" submitted with the original claim file. The claimant stated that no flow rate measurement for the ½ horsepower pump has ever taken place. The claimant did not know the make and model of the pump.

According to Mr. Derrick of the Deep Drilling Company in Bozeman, the average flow rate that can be expected from a ½ horsepower Myres pump Model No. S2J51-511 with a 12-foot lift is between 10 - 15 gpm.

The attached February 5, 1981 memorandum concerning estimated flow rates based on horsepower vs. vertical lift ratio suggests that a ½ horsepower pump with a 12-foot lift can provide about 16 gpm (see Figure____).

Example 4 (irrigation claim)

Volume:

The claimed volume is 166 acre-feet per year. Schieffert and Carpenter discussed the irrigation practices in an attempt to estimate volume diverted each year. Schieffert reported that he pumps into the upper ditch at about 800 gpm average for 20 days per irrigation. He estimates that he pumps into the lower ditch at about 2200 gpm average for 11 days per irrigation. From this information, the following estimated volume was calculated:

EXHIBIT IV-18 (cont.)

$800 \text{ gpm} \times 20 \text{ days/irrig.} \times .0044191 \text{ af/gpm/day} = 70.70 \text{ af/irrig.}$

$2200 \text{ gpm} \times 11 \text{ days/irrig.} \times .0044191 \text{ af/gpm/day} = 106.94 \text{ af/irrig.}$

Schieffert estimated that he may irrigate up to 1.5 times per year, which would mean a total volume of 266.46 ac-ft per year. This exceeds the Water Court volume guideline of 9.4 acre-feet per acre or 216.20 acre-feet per year. The Water Court guideline represents total system efficiency of 20 percent. This calculated diverted volume represents a total system efficiency of 16.2 percent. Reasons for reduced efficiency could include the larger head required to push water across the generally gravelly soils. It should be noted that this calculated diverted volume figure is based solely on estimates.

Example 5 (commercial claim)

Volume:

The claimed and decreed volume for this right is five acre-feet per year. According to the claimant, no measurement of the annual volume diverted has ever taken place. The maximum volume possible at the decreed flow rate is 48.8 acre-feet per year. The claimed volume is less than the Water Court guideline, which limits commercial volumes based on a twelve hour day, i.e., 24.4 acre-feet per year for this diversion. Attached is a copy of Manual of Individual Water Supply Systems by USEPA. This document indicates that the decreed volume of 5 acre-feet per year reflects typical daily water use for a water system involving a cafe, motel, and trailer court.

EXHIBIT IV-18 (cont.)

Example 6 (irrigation claim)

Place of Use and Acres Irrigated:

The claimed and decreed place of use and acres irrigated are:

23.00 acres	NW?	Sec 19	TWP 02S	RGE 13E	SWEETGRASS CO.
86.00 acres	NE?	Sec 19	TWP 02S	RGE 13E	SWEETGRASS CO.
17.00 acres	NE? NE?	Sec 19	TWP 02S	RGE 13E	SWEETGRASS CO.
<u>17.00</u> acres	NW? NW?	Sec 20	TWP 02S	RGE 13E	SWEETGRASS CO.
143.00 acres total					

Investigation found the place of use and acres irrigated to be (see Figure ____):

46.50 acres	NW?	Sec 19	TWP 02S	RGE 13E	SWEETGRASS CO.
<u>41.60</u> acres	NE?	Sec 19	TWP 02S	RGE 13E	SWEETGRASS CO.
98.10 acres total					

This total includes virtually all irrigable land between the Elges-Muncaster Ditch and the West Boulder River. The major area of discrepancy between this finding and the claimed place of use is that the claim included land irrigated from the Foster-Rule Ditch (43BJ-W-120361). Shieffert reported that this land is not irrigated using the Elges-Muncaster Ditch, that the place of use claimed for W-120359 is in error, and that there is no place of use overlap between 43BJ-W-120359 and W-120361. Therefore, no supplemental rights relationship exists between W-120359 and W-120361.

Example 7 (irrigation claim)

Place of Use and Acres Irrigated:

The claimed place of use (P.O.U.) is for 423 acres of irrigation. In May, 1984 Al Tuft, Water Rights Technician, identified 263 acres when the claim was examined using USDA aerial photo no. 779-999, dated 7/29/78.

During the investigation, two facts about the P.O.U. were observed that need to be addressed.

First, the observed P.O.U. in Section 1 has two methods of irrigation: ditch and natural overflow. According to Mr. Rath, the natural overflow is because the large drainage area above the P.O.U. causes high water during spring runoff and after big storms.

Second, an old ditch (see photos 1 and 2) covers part of the claimed P.O.U. The ditch is in good condition but it lacks a structure to divert water. Mr. Rath could not recall the exact date this ditch had last been used. The land below this ditch (43.2 acres) was not being irrigated.

Mr. Rath agreed to the areas observed as irrigated below the storage reservoir in Section 1, 12, 18, and 19 (see photos 3 and 4). As mapped with Mr. Rath and later measured with a digital planimeter, 239.5 acres are presently irrigated and an additional 43.2 acres could have been historically irrigated. Mr. Rath had no knowledge of when or if the 43.2 acres had been irrigated. Of the 239.5 acres being presently irrigated, 119.8 acres are flooded, and 119.7 acres are dike and natural overflow. The P.O.U., number of acres claimed, and number found during the field investigation are shown in Table ____.

EXHIBIT IV-18 (cont.)

SUMMARY

Example 1 (irrigation claim)

The means of diversion is a dike. The dike is breached, no water is being diverted, and no irrigation is taking place. Five acres would be the maximum irrigable acres. Because no reservoir was found, the reference to a reservoir in the decree appears unnecessary.

Example 2 (irrigation claim)

According to field observations, the controlled point of diversion off Miles Gulch is a headgate located in the SEA NWA NWA of Sec. 4, TWP 9N, RGE 6W, Powell County, and not in the location decreed. The conveyance system from this diversion irrigates a total of 24.0 acres. No actual measurements were taken of flow rate and volume. Based on identified acres proportionally related to the original claimed flow rate (1.25 cfs) and volume (120.0 acre-feet/year), the adjusted flow rate and volume using Water Court guidelines would be 0.75 cfs and 72.0 acre-feet/year, respectively.

Example 3 (domestic claim)

Based on field investigation observations, water rights for the Turk property had both domestic and irrigation purposes. The 5 acres decreed as "lawn and garden" use was found to be 20 acres of sprinkler "irrigation" used for pasture and hay production. The place of use of the 20 acres is:

5.0 acres	SE? SW? SW?	Sec 36	TWP 10N	RGE 17W	GRANITE CO.
<u>15.0 acres</u>	E? NW? SW?	Sec 36	TWP 10N	RGE 17W	GRANITE CO.
20.0 acres					

The flow rate and volume for the irrigation use as adjusted by Water Court standard for 20 acres would be respectively 0.75 cfs and 170 acre-feet per year.

The domestic use for the homestead cabin based on Water Court standards would have a flow rate of 25 gpm (0.06 cfs) and a volume of 1 acre-foot per year.

The point of diversion was found to be used for the domestic and irrigation purposes. It was identified to be in the SEA SWA SEA of Sec. 35, TWP 10N, RGE 17W, and not as decreed.

All other elements of the water right noted in the decree as claimed appeared to be correct.

EXHIBIT VI-2 (cont.)

PUBLIC DOMAIN ACTS AND RELATED CHAOS

Originally, the settlers were considered trespassers on public land. Eventually the government realized the need to make improvements on the wilderness to the west. In an attempt to control settlement, the federal government created several acts.

As time went by and conditions changed, the legislature attempted to amend the acts to fit the needs of the homesteaders, conditions of the land, and to ensure the intent of the original acts was followed. The amendments were usually too little too late. Also the administration of these laws changed. As a result, many promoters and ranchers abused the system and tied up large tracts of land.

What will follow is a summary of the public land acts. By familiarizing yourself with them, it will be easier to understand the problems we may encounter.

Preemption Rights:

This was the first method available to settlers to acquire title to Public Domain lands. For many years (from 1830) the preemption privilege secured a settler's right to purchase the tract of land he was on. Originally the right of preemption was only for surveyed public lands not exceeding 160 acres. The settler had to pay a fixed price of \$1.25 per acre. A preemption right was a possessory right, established by the construction of a dwelling and the making of improvements.

The surveyed land provision of the act was changed in 1842, but purchase and patent could not take place until after the lands were surveyed. The act provided that the preemptor should file his declaration of intent to purchase within three months after settlement, or in case it wasn't surveyed at the time of settlement, within three months after the filing of the survey plat. After these lands were surveyed, the actual property boundaries stayed the same even if they didn't fit in the rectangular system.

Homestead Act (May 20, 1862):

Through this act, any American citizen "who has never borne arms against the United States Government or given aid and comfort to its enemies" could acquire 160 acres by:

- filing an application with the General Land Office
- settling for a 5 year "prove-up" period
- cultivating 1/8 of the land

At that time, the settler could file a Certificate Homestead

EXHIBIT VI-2 (cont.)

(figure A) with the local United States Land Office. On presentation of this certificate to the Commissioner of the General Land Office (G.L.O.), the Homesteader is entitled to receive a patent (Figure B) for the land. When the patent from the G.L.O. is filed with the County Clerk and Recorder, it becomes the first deed on the land.

Settlers were permitted to commute their homestead entries to cash. After living on the land for 6 months, it could be acquired by paying \$1.25 per acre. During the early years of the operation of the Homestead Act, the commutation privilege was not often chosen by the settler. Then the settlers were genuine homesteaders and were on the land because they wanted farms, rather than to take advantage of the system.

On land that was granted to the Railroad, a settler could only claim 80 acres until 1880 when he could claim 160 acres. These lands could be commuted by paying \$2.50 per acre.

After 1880, a settler could count the time they spent on unsurveyed lands towards their "prove-up" period.

After 1891, fourteen (14) months residency was required before commuting was allowed, but 6 months was allowed to elapse before the establishment of a residence was required. Eventually residency for the full 14 months was required.

In the early 1900's, the production of wheat, flax, and other crops was spreading. Land could be brought into the market at \$1.25 or \$2.50 per acre a quarter section at a time, by means of the homestead privilege. Many instances have been recorded when a single crop brought values sufficient to buy and improve the farm it was grown on.

These facts encouraged speculators. No sooner was the time right for commutation than the land was made the basis for a loan. Then it might be held as a speculation for a few years, or it was sold at once. The prices during the early part of the decade ranged from \$400 to \$2600 for a quarter section. The sales were made to farmers who wanted large farms.

The fact that the homestead was too small to fit the grain producing conditions of the Northwest is an important point in explaining why homesteaders sold out so quickly.

Forest Homestead Act:

The Forest Homestead Act of 1906 opened to agricultural entry forest reserve lands which:

EXHIBIT VI-2 (cont.)

- are chiefly valuable for agriculture
- are not needed for public purposes
- are in the opinion of the Secretary of Agriculture, may be occupied without injury to the forest.

Applications for land not exceeding 160 acres or one mile in length were made to the Secretary of Agriculture. The land was examined by a field agent of the Forest Service and if his report was favorable, the land was listed with the Department of the Interior. After that, the homestead proceeds as any other entry under the Homestead Law, but no commutation was permitted.

The law differs from all other agricultural land laws in that the land must be chiefly valuable for agriculture and that the entry may be described by metes and bounds instead of legal subdivision of the public land survey. Sometimes when metes and bounds descriptions were used, claim clubs were organized. These clubs were groups of Homesteaders. They felt, by banding together and sticking up for each other, it would give a little more clout to their metes and bounds surveys.

Enlarged Homestead Act:

The ready availability of free or cheap land and the new method of dry farming made the Montana Homestead boom possible. However, high grain prices (which climbed from 1897 to 1920), promoters, and the Enlarged Homestead Act of 1909 (which doubled the amount of land available per person) launched it. Requirements within this Act provided that 1/4 of the land should be cultivated; that residence be required; and that the land should be nonirrigable. This Act may be looked on as a beneficial change in the public land policy made to accommodate the requirements to the peculiar conditions for the arid regions as compared with the humid regions it was designed for.

Three Year Homestead Act:

The Three Year Homestead Act of 1912 reduced the waiting period from 5 years to 3 years and permitted a homesteader to be gone for 5 months out of the year. It also gave added incentive to fulfill the residence requirements rather than commuting.

Stock Raising Homestead Act of 1916:

The Enlarged Homestead Act adapted the size of the farm to the type of cultivation, but there remained a large area of land in the Mountain States which was not adapted to the cultivation of any merchantable crop. This land could be used for grazing and for raising forage crops, which, to be worthwhile must be fed to cattle.

The more important revisions of the Stock Raising Homestead Act are:

EXHIBIT VI-2 (cont.)

- that 640 acres shall be the maximum homestead
- that the land must be designated by the Secretary of the Interior as "stock raising" land
- that the land must
 - a. have a surface good for only grazing and forage
 - b. contain no merchantable timber
 - c. have no convenient irrigation facilities
 - d. be of such quality to require 640 acres to support a family
- that certain improvements rather than a certain amount of cultivation are required on the homesteads
- no commutations are allowed
- coal and mineral rights are reserved
- waterholes are reserved for public use, also land on certain "trails" leading to these watering places. (This one sounds like trouble.)

No progress was made in the administration of this law until 1918, due to the failure of Congress to appropriate funds to carry on the classification of lands. (Some things never change.)

Much of this land would require more than 640 acres to support a family. The homesteader himself was required to make the decision as to the feasibility of supporting himself and family on any given piece of land.

Unfortunately, most homesteaders were not qualified to do this. As a result, there were a large number of sorry homesteaders; a group of stockmen bankrupt due to the breaking up of the range; and, a great many acres of good shortgrass plowed up and rendered worthless for many years to come.

Taylor Grazing Act:

The Taylor Grazing Act of 1934 withdrew all public lands from entry for the purpose of classification. The areas that were best suited for grazing were divided into Grazing Districts and leased to ranchers. This Act virtually halted agricultural homesteading in the Western Public Land States.

Desert Land Act of 1877:

The Desert Land Act was designed to fit the more arid conditions of the west. It authorized the sale of a 640 acre section of land to a settler who would irrigate 1/8 of it within 3 years after filing an application. It was meant to encourage reclamation and improvement of arid lands. Entries were originally permitted on unsurveyed land. A \$.25 per acre fee was made at the time of filing and a one dollar per acre fee at the time of making proof of compliance with the law.

EXHIBIT VI-2 (cont.)

The problem was that farmers could seldom irrigate such large plots without government support. Cattlemen would claim a section of range, make a token effort to irrigate and use it for pasture until the end of the 3 year "prove-up" period. Then forfeit the land to the government with the use for 3 years at little expense.

In August of 1890, an act was passed that restricted the amount of agricultural desert entry land that could be acquired from the government to 320 acres.

The Act of March 1891 amended the Desert Land Act and stipulated that:

- improvements amounting to \$3.00 an acre, one dollar an acre for 3 years, should be put toward reclamation.
- 1/8 of the land should be cultivated
- persons might associate together in a project for watering their several entries
- only citizens of the state in which the land was situated were allowed the privilege of entry
- required irrigation before patent could be issued on desert homesteads
- repealed the preemption laws
- granted rights of way for ditches, canals, and reservoirs on public lands. (Plats of these rights of way had to be filed with the land office showing the locations. These plats are frequently incorrect and do cause some problems when the sections are resurveyed.)

The Act of March 1915 amended the Desert Land Act and provided that:

- 3 years additional time be granted to entrymen who have spent the \$3.00 per acre in an effort to irrigate and cultivate their land, and can show a reasonable prospect of doing so within 3 more years.
- Those that have spent the money without prospect of getting water have the opportunity of getting title under the Homestead Act.
- Those failing to get water were offered the privilege to pay \$.50 per acre to the government; then expend \$1.25 per acre on improvements, cultivate the land for 3 years, and finally pay \$.75 per acre additional to the government and receive title.

Carey Act of August 18, 1894:

Under this act, the federal government agreed to donate certain states a quantity of land not to exceed 1,000,000 acres

EXHIBIT VI-2 (cont.)

each, which they should cause to be settled, irrigated, and part cultivated. To obtain patents to these lands from the government, it required that at least 5 of each 40 acres must be irrigated. Where it was impractical to comply with this requirement, the non-irrigable lands were relinquished to the state government.

Also under this act, contracts were granted for the construction of irrigation systems, and the right to sell and dispose of water rights to the settlers or purchasers of public lands.

When the Carey Act enterprises (improvements) were completed and paid for, they were turned over to local companies. Stock in these companies were issued to the holders of the water rights, the enterprises thus became cooperative. Under the act, about a million acres have been patented to private parties.

Problems:

Most of the problems we will have with old public domain lands that have gone to private ownership stem from old surveys. Many of these surveys have errors in them. These errors are due to poor equipment, hostile environment, abundance of land, and lack of skilled surveyors.

In areas where no rectangular surveys have been conducted, section corners were often protracted, and therefore not very accurate. Surveys were tied into a known section corner if there was one within 2 miles. If there wasn't, a permanent location monument had to be erected. Very often these surveys will be in General Land Office (G.L.O.) plat books.

Most areas have been resurveyed. Originally the purpose of resurveys was to determine where the corner was established initially. Legislation providing for resurveys came about when it became apparent that the lines and corners of many older surveys were becoming so obliterated or distorted that their identification was in doubt. One stipulation of the resurvey laws was that no resurvey may be executed in such a way that it could impair the rights of the claimant of the lands affected.

The problem we may have is if an old map is sent with the claim, and the area has been resurveyed. The old map could show an inaccurate legal land description. When we come across these types of maps, they should be compared to recent U.S.G.S. maps or G.L.O. plat books.

Examples of Homestead Entry Survey maps will follow.

EXHIBIT VI-2 (cont.)

MINERAL SURVEYS

The Mining Law of 1872 opened the valuable mineral deposits in the lands belonging to the United States to further prospecting and development. One of the requirements for obtaining a patent to a mining claim was a boundary survey. The survey was to be paid for by the claimant, but made by a government-appointed surveyor. Bearings are referred to the true meridian and distances are in feet.

The position of the claim is tied into the nearest section or quarter section corner. If no public corner exists within 2 miles, a location monument is established on some prominent point having good visibility from every direction. Monuments set by the original locator are used as the true location of the claim. The Act of April 28, 1904, declared mineral survey corners to have the same legal status as rectangular survey corners. They were unchangeable, and the Surveyor General had to honor them.

A mineral claim until patented is a partial right since title to the land is retained by the government.

In addition to determining the size of a claim and setting permanent boundary corners, the surveyor records topography, location of shafts and tunnels, location of the vein where it crosses the end lines, conflicts with adjoining claims and location of springs, salt licks, and mill sites.

Problems:

Location surveys for unpatented mining claims may be made by the claimant or someone employed by him. Only final surveys for patent must be made by a United States mineral surveyor. Very often location survey maps are little more than glorified sketch maps. If one was submitted with a water right claim, it would be reckless to get a legal land description from it.

Old maps for patented mining claims, or copies of U.S. Forest Service or Bureau of Land Management maps with patented ground delineated on them, may be submitted with a water right claim. These should be compared with the General Land Office plat maps for accuracy. The legal land description is the least of our problems when it comes to mining claims. Flow rate and volume are the juicy ones.

Copies of mineral survey plats are attached.

EXHIBIT VI-2 (cont.)

REFERENCES CITED

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Montana, A Bicentennial History, by Clark C. Spence.
- John Wiley & Sons, Inc. 1957, 1969. Boundary Control and Legal Principles, by Brown, Landgraf, Uzes.
- University of Washington Press 1976. Montana. A History of Two Centuries, by Malone, Roeder.
- U.S. Government Printing Office 1980. Surveying our Public Lands, by U.S. Department of the Interior, Bureau of Land Management.
- U.S. Government Printing Office 1926. A History of the Rectangular Survey System, by C. Albert White.
- The University of Wisconsin Press 1965. A History of the Public Land Policies, by Benjamin Horace Hibbard.
- State Engineer's Office, Helena, Montana, June 1964. Water Resource Survey, Pondera County, Montana, Part 1.
- U.S. Government Printing Office, Washington, D.C. Surveys and Surveyors of the Public Domain 1785-1975, by Lola Cazier.

OTHER RESOURCES

Bruce Crawford
U.S. Forest Service
Lolo National Forest
Bldg 24, Fort Missoula
Missoula MT 59801

Dave Walter
Montana Historical Society
Library
225 North Roberts St.
Helena MT 59620

James Muhn
U.S. Department of the Interior
Bureau of Land Management
P.O. Box 25047
Denver CO 80225-0047

Dick Larimer
U.S. Department of the Interior
Bureau of Land Management
P.O. Box 36800
Billings MT 59107

CLAIM NO. _____

BASIN CORRECTION

WAS: _____

NOW: _____

EXPLANATION: _____

CHANGE MADE BY: _____ DATE: _____

APPROVED BY (if required): _____ DATE: _____

DNRC SUPPLEMENTAL DOCUMENT

EXHIBIT VI-6

DNRC RESERVOIR INFORMATION WORKSHEET

Claim No(s) _____

Claimant _____

Please complete as much of the following information as you can and return it to the Water Resources Regional Office within thirty (30) days. A guide for identifying the capacity of reservoirs, lakes, and ponds is provided. Please call our office if you have questions or need assistance.

A. Data

1. If a dam:

a. Dam height _____

b. Maximum depth (spillway height) _____

c. Surface area when full, in acres _____

d. Volume (acre-feet) _____ Compute as follows:

surface area in acres x maximum depth in feet x 0.4 = acre-feet

e. How were these measurements taken? _____

2. If a pit:

a. Length (feet) _____ Width (feet) _____ Depth (feet) _____

b. Volume (acre-feet) _____ Compute as follows:

Length in feet x width in feet x depth in feet x .05 = acre-feet

43,560

c. How were these measurements taken? _____

3. Is the reservoir: on the source _____ off the source _____?

B. Operation

1. If you have a headgate, drawdown tube or pump for diverting water from the reservoir, how much of your reservoir can you drain?

_____ 1/4 _____ 1/2 _____ 3/4 _____ All or _____ Percent

2. Period of year when water is diverted, impounded or withdrawn from the source into the reservoir or pit (month/day) _____ to _____

3. Period of year when water is diverted or released from reservoir or pit for use (month/day) _____ to _____

4. If the reservoir is off the source, how is water diverted from the source to the reservoir?

a. Headgate and/or Ditch (give dimensions and flow rate) _____

b. Pump (give size, type and flow rate) _____

c. Other (give capacity) _____

C. History and Condition

1. When was dam/pit built? _____

EXHIBIT VI-6 (cont.)

DNRC RESERVOIR INFORMATION WORKSHEET

Claim No(s). _____

Page 2

History and Condition (cont.)

2. When was it first used for purpose claimed? _____

3. Does the reservoir hold water? _____

4. Is the dam (or dike) washed out or breached? _____

If so, how long has it been this way? _____

5. Has dam been raised? _____ If so, when? _____

Did this add to freeboard, capacity, or both? _____

How much was the capacity increased? _____

6. Is reservoir also used for another purpose? _____

Please explain _____

Do you plan

Comments:

Signature: _____ Date: _____

____ Owner ____ Other: _____

FOR DEPARTMENT USE ONLY

DNRC Reservoir/Pit Estimate:

Dam Height: _____ ft Maximum Depth: _____ ft

Surface Area: _____ acres Capacity: _____ ac-ft

00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00

Information obtained:

____ DNRC Data Sources ____ Claim File

____ Outside Data Sources:

____ Personal Interview: Date/Location _____

____ Telephone Interview:

Date/Time _____

____ Sent to Claimant: Date _____ Returned: ____ Yes ____ No

Reviewer: _____ Date: _____

**EXHIBIT VI-7
DNRC RESERVOIR WORKSHEET**

Claim Nos. _____

Reservoir Questionnaire Sent: Date _____ Returned: ____ Yes ____ No

A. History and Condition.

1. Date of construction _____ Date of first use _____
2. Condition _____

3. Purpose(s) of use _____
[example: IR-W999999, ST-W999998, MN-W999997]

B. Data on _____ Dam _____ Pit _____ Dam/Pit.

1. Dam Height _____
2. Maximum Depth (feet) _____
3. Surface Area when full (acres) _____
3. Maximum Storage Capacity (acre-feet) _____
4. Volume that can be drained from reservoir (acre-feet) _____
5. Evaporation
 - a. Annual gross evaporation (feet) _____
 - b. Annual precipitation (feet) _____
 - c. Annual net evaporation (feet) _____
 - d. Total evaporation _____ acre-feet
(net evap. X surface area)

C. Operation

1. Volume used each year (acre-feet) _____ Purpose: _____
_____ Purpose: _____
2. Carry-over storage (acre-feet) _____
3. Period of diversion from source into reservoir
_____ to _____ Purpose: _____
_____ to _____ Purpose: _____
4. Period of diversion from reservoir for use
_____ to _____ Purpose: _____
_____ to _____ Purpose: _____
5. Means of diversion from reservoir for use (type and diversion)

Completed By _____ Date _____

EXHIBIT VI-14
Reserved Rights Contact Letter
(Use Regional Office Letterhead)

August 1, 1993

Francis Rieman
USDI Bureau of Land Management
Montana State Office
Resources Division
P.O. Box 36800
Billings, MT 59107

RE: Reserved Water Rights in Basin 40J

Dear Ms. Rieman:

At the present time, 738 reserved water right claims exist in the Middle Milk River drainage (Basin 40J). Of those, 729 belong to the U. S. Department of Interior, Bureau of Land Management (BLM). These claims were filed on various sources for wildlife use.

Following are preliminary questions this Department has regarding these claims.

1. Are these claims indeed reserved rights?
2. Does BLM intend to retain them as reserved rights?
3. Does BLM plan on changing any of these claims from a reserved right to a state based right (use, filed, or decreed)?

A list of Basin 40J reserved water rights is enclosed for your review. After considering the above questions, please contact me at 265-5516 with your decisions.

Thank you for your assistance in this matter. If you have any question, please give me a call.

Sincerely,

Dan T. Cole
Water Resources Specialist
Havre Water Resources Regional Office

Enc.

EXHIBIT VI-15
Indian Cessions

This exhibit is an explanation of the Indian Land Cessions map provided to each field office. The fact being identified for the Water Court by this policy is that the priority date claimed for a particular water right precedes the cession of the land by Indians, thus the general date of settlement. The question of whether or not the claimed priority date is valid is a legal issue. We are merely identifying a fact for the Water Court.

In the table below, references are given for the particular acts of Congress and executive orders involved. Only land cessions are included; for information on other acts of Congress and executive orders concerning Indian tribes, please contact the program manager. The dates given correspond to those indicated on the provided map.

- Acts of congress are usually radifications of treaties or agreements with Indian tribes. The date is the date of the act rather than the date the treaty or agreement was signed. References for the acts of Congress are to statutes at large.
- Executive orders are orders from the President, and may or may not correspond to particular agreements with Indian tribes. Dates given are the dates of the order. Executive orders can be referenced by date.

ACTS OF CONGRESS

<u>Date</u>	<u>Reference</u>	<u>Tribe(s) Involved</u>
March 8, 1859	XII-975	Flathead, Kootenay [sic], Upper Pend d'Oreille
Feb. 28, 1877	XIX-254	Sioux, Northern Cheyenne, Arapahoe
April 11, 1882	XXII-42	Crow
May 1, 1888	XXV-113	Gros Ventre, Piegan, Blood, Blackfeet, River Crow
7March 3, 1891	XXVI-1039	Crow
Sept. 28, 1895	XXIX-353	Gros Ventre, Piegan, Blood, Blackfeet, River Crow
Oct. 9, 1895	XXIX-350	Assiniboin, Gros Ventre
April 27, 1904	XXXIII-352	Crow

EXHIBIT VI-15 (cont.)

EXECUTIVE ORDERS

<u>Date</u>	<u>Tribes Involved</u>
July 5, 1873	Gros Ventre, Piegan, Blood, Blackfoot, River Crow
Aug. 19, 1874	Gros Ventre, Piegan, Blood, Blackfoot, River Crow
July 13, 1880	Arikara, Gros Ventre, Mandan
July 13, 1880	Gros Ventre, Piegan, Blood, Blackfeet, River Crow

SOURCES: Eighteenth Annual Report, US Bureau of Ethology. US
Statutes at Large.

EXHIBIT VI-16

Contact Letter For
'62-'73 Groundwater Claims
(Use Field Office Letterhead)

August 11, 1993

Flora Sylvan, Hydrologist
Greentree National Forest
Floodplain, MT 59999

RE: Water Right Claims Nos. 99X-W589898 through W589909

Dear Ms. Sylvan:

The Department of Natural Resources and Conservation is presently examining water right claims in the Floodplain River drainage (Basin 99X). The above claims have a deficiency about which we are required to contact you.

Claims, nos. 99X-W589898 through W589909, are filed on groundwater developed between December 31, 1961 and July 1, 1973. Laws in effect at that time required that a groundwater appropriation form (GW1, GW2, or GW3) be filed at the local courthouse for all groundwater developments put to beneficial use from January 1, 1962 to July 1, 1973, and that the date of filing be the priority date.

Copies of the filings were not submitted for the above mentioned claims. Please check your records or the Clerk and Recorder's office in the county containing the development for these forms. If found, send a copy showing the filing date to this office.

If a priority date remains unsupported by a properly filed form, the deficiency will be reported to the Montana Water Court, which may hold a hearing on the matter.

Please respond to this request within thirty days. If you have any questions, don't hesitate to contact us.

Sincerely,
E. R. Satz
Water Rights Technician

Enclosures*

***NOTE:** This letter may be used to contact any claimant, either government agencies or private parties. Enclose copies of claim forms for all claimants other than the federal government.

EXHIBIT VII-3

DNRC REQUEST FOR PUMP INFORMATION

Claim No. _____

Claimant _____

Please complete as much of the following information as you can and return it to the Water Rights Field Office within thirty (30) days. Normally most of this data can be found on the pump, or in the literature that came with the pump. Please call us if you have questions or need assistance.

1. Pump System (current system)

- a. Has the output (flow rate) of this pump ever been measured? _____
If so, what was the maximum flow rate measured? _____
How was the measurement performed? _____
If never measured, what do you estimate the flow rate to be? _____
- b. Make and Model _____
- c. Type of Pump Centrifugal _____ Turbine _____ Submersible _____
Other _____ Explain: _____
- d. Type of Power Electric _____ PTO _____
Other _____ Explain: _____
- e. Approximate age of the pump _____
- f. Horsepower of the motor _____
- g. RPM's of the pump _____
- h. Diameter of the pump impeller _____
- i. Pressure at pump (psi) _____
- j. Intake and outlet pipe sizes _____
- k. Well (if involved) Casing Size _____
 Level of water in well _____
- l. Elevation difference between the water source and the highest point of use

- m. No. of nozzles and sizes (if involved) _____
- n. Please send a copy of the pump curve (if available).

EXHIBIT VII-3 (cont.)

DNRC REQUEST FOR PUMP INFORMATION (cont.)

Claim No. _____

2. Flow Rate. (current system)

a. Has the output (flow rate) of your system ever been measured? _____

If so, what was the maximum flow rate measured? _____

b. How was the measurement performed? _____

c. If never measured, what do you estimate the flow to be? _____

3. History and Condition.

a. When was the current pump system built? _____

b. When was water first used for the purpose claimed? _____

c. Is the water system in working order or operation? _____

d. If no to part 3.c., when was it last used? _____

4. Please describe the original system (if different from the current system), and all enlargements or reductions of the pump system and the date each occurred.

5. Plans, maps or photos of the water system would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Comments:

Signature: _____ Date: _____

____ Owner ____ Other:

EXHIBIT VII-5
DNRC REQUEST FOR GRAVITY FLOW PIPELINE INFORMATION

Claim No. _____

Claimant _____

Please complete as much of the following information as you can and return it to the Water Rights Field Office within thirty (30) days. Please call our office if you have questions or need assistance.

1. Diversion structure:

a. Method or type (spring box, culvert, dam, etc.):

b. Dimension (length, diameter (width), depth):

c. Materials (wood, metal, concrete, etc.):

2. Conveyance facility:

a. Material:

i. Type of pipe (copper, plastic, steel): _____

ii. Condition of pipe: _____

b. Dimensions and length (please note the diameter and length of each different type of pipe):

c. Slope or elevation change from point of diversion to place of use (water levels):

EXHIBIT VII-5 (cont.)

DNRC REQUEST FOR GRAVITY FLOW PIPELINE INFORMATION (cont.)

Claim No. _____

3. Flow Rate.

- a. Has the output (flow rate) of your system ever been measured? _____
If so, what was the maximum flow rate measured? _____
- b. How was the measurement performed? _____

- c. If never measured, what do you estimate the flow to be? _____

4. History and Condition.

- a. When was this gravity flow pipeline system built? _____
- b. When was it first used for the purpose claimed? _____
- c. Is the water system in working order or operation? _____
- d. If no to part 4.c., when was it last used? _____

5. Please describe all enlargements or reductions of the original water system and the date each occurred.

6. Plans, maps or photos of the water system would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Comments:

Signature: _____ Date: _____

____ Owner ____ Other:

EXHIBIT VII-7

DECREE EXCEEDED CONTACT LETTER
(Use field office letterhead)

Peter Langen
Star Route
Headgate Heights, MT 59122

30 October 1995

Re: Claim No. 99Y-W999999-00

Dear Mr. Langen:

The Department of Natural Resources and Conservation is examining the claims on Sweathouse Creek. The parties listed on the attached decree index claim to be successors in interest to the water right originally decreed to Mary Blake (Case 1011, Ravalli County). This water right is for 160 miners inches from Sweathouse Creek with a priority date of April 1, 1904.

The combined flow rate for all water rights now claiming the Mary Blake right totals 221 miners inches.

The claimants involved may now resolve the over-claimed Mary Blake right by reducing the total combined flow rate to 160 miners's inches. Otherwise, the Department is required to report the problem to the Montana Water Courts for their review at a later date.

You may call the Missoula Field Office at 721-4284 or stop at our office in the Holiday Village Professional Plaza. Thank you for your cooperation.

Sincerely,

Al E. Quot
Water Right Specialist
Missoula Field Office

/mk

enclosure

EXHIBIT VII-8

CALCULATION OF VOLUME GUIDELINES

The calculation of volume guidelines was based on the following definitions.

a. Total Consumptive Use - is the total amount of water, in inches, (assumes no rainfall) that a crop of alfalfa will use during an average growing season. These figures have been estimated by the Soil Conservation Service using the modified Blaney-Criddle Formula.

b. Average Annual Rainfall - an estimation of annual rainfall, in inches, for each climatic area. Estimates were made from an average annual precipitation map for the State of Montana by the Soil conservation Service using a 1953-1967 base weather period.

c. Effective Rainfall - is an estimate, in inches, of the portion of total rainfall that can effectively be used by the crop during the growing season.

d. 80% Chance of Occurrence - is a "reducing" factor used to estimate effective rainfall on a probability basis.

e. 80% Chance of Effective Rainfall - is the amount of effective rainfall that can be expected to occur 80% of the time. It is obtained by multiplying effective rainfall by the 80% chance of occurrence "reducing" factor.

f. Net Irrigation Requirement - is the depth of irrigation water, in inches, that is required consumptively for crop production.

It should be noted that many factors operate singly or in combination to influence the amounts of irrigation water consumed by plants. The empirical formulas (modified Blaney-Criddle and Jensen-Haise) estimate consumptive use primarily based on climatic factors. For particular situations, these seasonal consumptive use figures may be an overestimation due to the unavailability of irrigation water supply, water quality, soil type, and soil fertility.

Total consumptive use figures have been estimated by the Soil Conservation Service using the modified Blaney-Criddle formula. Research conducted through the Montana Cooperative Extension Service and Washington State University Aricultural Experiment Station using the FAO Food and Agriculture Organization) Blaney-Criddle method indicates that the modified Blaney-Criddle formula underestimates total consumptive use by approximately 20%.

In an article published in the 1984 ASAE transactions, researchers at the University of Wyoming found that the SCS Blaney-Criddle requires an upward adjustment of 10% per 1000m altitude increase above sea level. Using this report for Montana, the SCS consumptive use figures were increased by 10% for climatic areas I and II, 15% for climatic area III, and 20% for climatic areas IV and V.

EXHIBIT VII-8 (cont.)

Seasonal consumptive use figures per climatic area have also been calculated using the Jensen-Haise method by J.W. Bauder, Montana Cooperative Extension Service in a guide entitled Scheduling Irrigation In Montana. The results of this various research are shown in Table A.

Total consumptive use standards to be used per irrigated acre are shown in Table A. The Water Court Standards for total consumptive use represents a slight compromise which tends to agree with the research done to date. The most direct correlation can be found between the Water Court revised standard and the application of the University of Wyoming study adjustments to SCS modified Blaney-Criddle. One will note that the only real variation lies in total consumptive use figures in climatic area five. Application of the University of Wyoming study results in a derivation of 17.2 inches/acre/year while the revised Water Court Standard is 20.0 inches/acre/year. This upward adjustment results in a higher water requirement for the area. Adjustment was made primarily due to our feeling that SCS climatic area five reflects an undefined and possibly unrealistic deviation from the other five zones. Therefore, instead of leaving the climatic area at 17.2, an interval decrease of 6.8", below zone IV we suggest raising it to 20", in interval decrease of 4". Such an adjustment for use in a capping standard is favorable to the users.

Referring to Table B, the three different volume standards have been calculated based on type of irrigation system. The determination of net irrigation requirement follows the procedure set forth in Irrigation Water Requirements, Technical Release No. 21 by the Soil Conservation Service.

Table A
Total Consumptive Use per Acre
Per Growing Season

Area	Climatic				
	I	II	III	IV	V
Modified Blaney-Criddle By SCS (inches)	28.99	25.98	23.03	19.96	14.33
U. of Wyoming report (inches)	31.9	28.6	26.5	24.0	17.2
FAO Blaney-Criddle (inches)	34.8	31.2	26.5	24.0	17.2
Jensen-Haise Report By Bauder (inches)	34.4	32.2	30.0	28.4	26.4
Water Court Standard (inches)	32.0	29.0	26.5	24.0	20.0

EXHIBIT VII-8 (cont.)

Table B
Determining Volumes by Climatic Area

	I	II	III	IV	V
Total Consumptive Use (inches)	32.00	29.00	26.50	24.00	20.00
Average Annual Rainfall (inches)	12.00	13.00	14.00	15.00	16.00
Effective Rainfall (inches)	6.85	6.63	5.53	5.14	3.74
80% Chance of Occurrence	.69	.70	.71	.72	.73
80% Chance of Effective Rainfall (inches)	4.73	4.64	3.93	3.70	2.73
Net Irrigation Requirement (inches)	27.27	24.36	22.57	20.30	17.27
Water Spreading Systems, Sub-Irrigation, and Natural Overflow Volume (AF/A)	2.3	2.0	1.9	1.7	1.4
Sprinkler and Pumped Diversion Systems (50% Overall Efficiency) volume (AF/A)	4.5	4.0	3.8	3.4	2.9
Flood Systems (20% Overall Efficiency) volume (AF/A)	11.4	10.2	9.4	8.5	7.2

**EXHIBIT VII-9
DNRC EXAMINATION WORKSHEET POU ADDENDUM**

Page ____ of ____ Claim #
Data Source #1 _____ Date

PARCEL	ACRES	LOT	BLK	QTR SEC	SEC	TWP	RGE	CNTY
001	_____	_____	_____	_____	_____	_____	_____	_____
002	_____	_____	_____	_____	_____	_____	_____	_____
003	_____	_____	_____	_____	_____	_____	_____	_____
004	_____	_____	_____	_____	_____	_____	_____	_____
005	_____	_____	_____	_____	_____	_____	_____	_____
006	_____	_____	_____	_____	_____	_____	_____	_____
007	_____	_____	_____	_____	_____	_____	_____	_____
008	_____	_____	_____	_____	_____	_____	_____	_____
009	_____	_____	_____	_____	_____	_____	_____	_____
010	_____	_____	_____	_____	_____	_____	_____	_____
011	_____	_____	_____	_____	_____	_____	_____	_____
012	_____	_____	_____	_____	_____	_____	_____	_____
013	_____	_____	_____	_____	_____	_____	_____	_____
014	_____	_____	_____	_____	_____	_____	_____	_____
015	_____	_____	_____	_____	_____	_____	_____	_____
016	_____	_____	_____	_____	_____	_____	_____	_____
017	_____	_____	_____	_____	_____	_____	_____	_____
018	_____	_____	_____	_____	_____	_____	_____	_____
019	_____	_____	_____	_____	_____	_____	_____	_____
020	_____	_____	_____	_____	_____	_____	_____	_____

_____ Total Acres This Page Contact Range=_____to

Data Source #2 _____ Date

PARCEL	ACRES	LOT	BLK	QTR SEC	SEC	TWP	RGE	CNTY
001	_____	_____	_____	_____	_____	_____	_____	_____
002	_____	_____	_____	_____	_____	_____	_____	_____
003	_____	_____	_____	_____	_____	_____	_____	_____
004	_____	_____	_____	_____	_____	_____	_____	_____
005	_____	_____	_____	_____	_____	_____	_____	_____
006	_____	_____	_____	_____	_____	_____	_____	_____
007	_____	_____	_____	_____	_____	_____	_____	_____
008	_____	_____	_____	_____	_____	_____	_____	_____
009	_____	_____	_____	_____	_____	_____	_____	_____
010	_____	_____	_____	_____	_____	_____	_____	_____
011	_____	_____	_____	_____	_____	_____	_____	_____
012	_____	_____	_____	_____	_____	_____	_____	_____
013	_____	_____	_____	_____	_____	_____	_____	_____
014	_____	_____	_____	_____	_____	_____	_____	_____
015	_____	_____	_____	_____	_____	_____	_____	_____
016	_____	_____	_____	_____	_____	_____	_____	_____
017	_____	_____	_____	_____	_____	_____	_____	_____
018	_____	_____	_____	_____	_____	_____	_____	_____
019	_____	_____	_____	_____	_____	_____	_____	_____
020	_____	_____	_____	_____	_____	_____	_____	_____

_____ Total Acres This Page Contact Range=_____to

Examined By: _____ Date:

EXHIBIT VII-11
WRS ACREAGE CONTACT LETTER
(Use Field Office Letterhead)

April 2, 2003

John Q. Wateruser
Bottomland Ranch
Floodplain, Montana 59999

RE: Claim No. 99Z-W999999-00

Dear Mr. Wateruser:

The Montana Water Court has begun the preliminary work necessary to issue a decree on all pre-July 1, 1973 water rights in the Bigwide River basin. At it's request, the Department of Natural Resources and Conservation (DNRC) staff is reviewing all the water right claims in the basin.

Your water right claims in the Bigwide River basin are currently being examined. The 1954 Wideopen County Water Resources Survey is being used to check whether claimed acres reflect the irrigation as it was prior to July 1, 1973. The review of claim number 992-W999999-00 (copy enclosed) has raised a question that cannot be answered from the information you submitted. You claimed 150 acres of irrigation. The 1954 Wideopen County Water Resources Survey reported only 78 acres of irrigation on the same place of use.

As required, the survey data will be reported to the Water Court along with the claimed acreage, if the discrepancy is unresolved. They may take action on the claim based on this discrepancy. If you have information that contradicts the survey, or feel your claimed acreage or place of use should be amended, please contact me.

Thank you for your time and cooperation.

Sincerely,

Al E. Quot
Water Rights Technician

Enclosure

NOTE: Using the field office microcomputer for this letter allows customizing and provides a clean original.

EXHIBIT VII-13

LIST OF IRRIGATION DISTRICTS
Alphabetical By County

NOTE: The following list was provided by the DNRC Engineering Bureau in the fall of 1987. Each district listed on it was incorporated under the requirements of 85-7-101 through 110, MCA. The list may not contain all districts having that type of incorporation.

BE	East Bench Irrigation District
BE	West Bench Irrigation District
BH	Big Horn Irrigation District
BH	Lower Little Horn & Lodge Grass Irrigation District
BH	Upper Little Horn Irrigation District
BL	Alfalfa Valley Irrigation District
BL	Fort Belknap Irrigation District
BL	Harley Irrigation District
BL	North Chinook Irrigation District
BL	Paradise Valley Irrigation District
BL	Zurich Irrigation District
BR	Toston Irrigation District
CS	Fort Shaw Irrigation District
LC	Helena Valley Irrigation District
LN	Glen Lake Irrigation District
MS	Big Flat Irrigation District
MS	Clinton Irrigation District
MS	Frenchtown Irrigation District
MS	Missoula Irrigation District
PH	Dodson Irrigation District
PH	Glasgow Irrigation District
PH	Malta Irrigation District
PI	Buffalo Rapids Irrigation District
RA	Bitterroot Irrigation District
RA	Blodgett Creek Irrigation District
RA	Canyon Creek Irrigation District
RA	Charlos Heights Irrigation District
RA	Daly Ditches Irrigation District
RA	Lomo Irrigation District
RA	Mill Creek Irrigation District
RA	Sunset Irrigation District
RA	Ward Irrigation District
RI	Intake Irrigation District
RI	Lower Yellowstone Project Irrigation District
RI	Savage Irrigation District
RS	Cartersville Irrigation District
RS	Hammond Irrigation District
TE	Bynum Irrigation District
TE	Greenfields Irrigation District
TR	Yellowstone Irrigation District
YE	Danford Irrigation District
YE	Huntley Project Irrigation District
YE	Lockwood Irrigation District
YE	Victory Irrigation District

EXHIBIT VII-13 (cont.)

LIST OF IRRIGATION DISTRICTS

Alphabetical By District

NOTE: The following list was provided by the DNRC Engineering Bureau in the fall of 1987. Each district listed on it was incorporated under the requirements of 85-7-101 through 110, MCA. The list may not contain all districts having that type of incorporation.

BL	Alfalfa Valley Irrigation District
MS	Big Flat Irrigation District
BH	Big Horn Irrigation District
RA	Bitterroot Irrigation District
RA	Blodgett Creek Irrigation District
PI	Buffalo Rapids Irrigation District
TE	Bynum Irrigation District
RA	Canyon Creek Irrigation District
RS	Cartersville Irrigation District
RA	Charlos Heights Irrigation District
MS	Clinton Irrigation District
RA	Daly Ditches Irrigation District
YE	Danford Irrigation District
PH	Dodson Irrigation District
BE	East Bench Irrigation District
BL	Fort Belknap Irrigation District
CS	Fort Shaw Irrigation District
MS	Frenchtown Irrigation District
PH	Glasgow Irrigation District
LN	Glen Lake Irrigation District
TE	Greenfields Irrigation District
RS	Hammond Irrigation District
BL	Harley Irrigation District
LC	Helena Valley Irrigation District
YE	Huntley Project Irrigation District
RI	Intake Irrigation District
YE	Lockwood Irrigation District
RA	Lomo Irrigation District
BH	Lower Little Horn & Lodge Grass Irrigation District
RI	Lower Yellowstone Project Irrigation District
PH	Malta Irrigation District
RA	Mill Creek Irrigation District
MS	Missoula Irrigation District
BL	North Chinook Irrigation District
BL	Paradise Valley Irrigation District
RI	Savage Irrigation District
RA	Sunset Irrigation District
BR	Toston Irrigation District
BH	Upper Little Horn Irrigation District
YE	Victory Irrigation District
RA	Ward Irrigation District
BE	West Bench Irrigation District
TR	Yellowstone Irrigation District
BL	Zurich Irrigation District

EXHIBIT VIII-1

DNRC QUESTIONNAIRE FOR DOMESTIC WATER USE CLAIMS

Claim No. _____

Claimant: _____

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put the claim number on any extra sheets.

1. Please describe the domestic use.
 - a. How many households on your property are currently using the water?

 - b. How many people are using the water? _____
 - c. How many acres of lawn and garden are you irrigating? _____
2. Please describe the physical status of your domestic system.
 - a. Is the water system in working order? _____
 - b. What physical evidence and structures are at the site (storage tanks, pipelines, pumps, etc.)? _____

 - c. If not presently being used, in what condition are the site and structures? _____

3. Priority date:
 - a. When was water first used on your property for domestic use? _____

 - b. What evidence can you provide to support the date of first water use? _____

 - c. If not presently being used, when was it last used for domestic purposes? _____
 - d. Do you have a Permit or Certificate by DNRC to appropriate water for this system? _____ If yes, what is the permit or certificate number? _____

4. Please describe the design of the water system.

a. Diversion structure and conveyance facility:

- (1) Method or type of diversion (pump, pipeline, dam, etc.): _____

- (2) Dimensions (pump size, rpm, etc.; headgate dimensions; pipeline dimensions; etc.): _____

- (3) Materials: _____
- (4) Date constructed: _____

b. Flow rate and volume:

- (1) What is the maximum flow rate of the system? _____
Has the flow rate ever been measured? _____
If yes, what were the results? _____
- (2) What is the maximum volume in acre-feet used per year (1 acre-foot = 325,851 gallons)? _____

How was the volume determined? _____

c. Period of use:

- (1) What times of the year has the water been used (months/days)? _____

- (2) How many hours per day (average) is the water system used? _____

5. Are there any other parties using the same water system? _____

If yes, please list the names. _____

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

DOMESTIC USE QUESTIONNAIRE
PAGE 3

CLAIM NO. _____

FOR DEPARTMENT USE

Information Obtained: ☐ Sent To Claimant ☐ Telephone Interview
☐ Personal Interview ☐ Other: _____

Reason: ☐ DNRC Examination
☐ Other: _____

Time and
Location: _____

Reviewer: _____ Date: _____

Remarks:

EXHIBIT X-1

Claim No. _____

QUESTIONNAIRE FOR INDUSTRIAL WATER USE CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Please describe the industrial facility (sawmill, smelter, furniture factory, etc.)
 - a. Briefly describe the size of the industrial operation.
 - b. How has water been used in connection with the industrial facility?
 - c. Is this a private water system or is your water obtained from another water system (i.e. municipal)?
 - d. When was this industrial facility initially constructed and put into operation?
 - e. When was it last operated for this purpose?
2. Please describe the physical status of the industrial operation.
 - a. What physical evidence and structures are at the site?
 - b. In what condition are the site and structures?
 - c. Is the water system in working order or operational?
 - d. If not presently being used, describe any evidence at the site that water was used in the past.
3. Priority date:
 - a. When was water first used as part of this industrial activity?
 - b. What evidence can you provide to support the date of first water use?
 - c. Has the water been used every year since first use? If not, please explain.

EXHIBIT X-1 (cont.)

Claim No. _____

- d. Is the system currently used for diverting water for industrial purposes? When was the water last used for industrial purposes?

4. Please describe the original design and operation of the water system associated with the claimed purpose.

- a. Diversion structure:

- (1) Method or type (pump, pipeline, dam, etc.):
- (2) Dimension (pump size, rpm, etc.; headgate dimensions; well depth, casing size, static water table; etc.):
- (3) Date constructed:
- (4) Present operational status:

- b. Conveyance facility:

- (1) Method or type:
- (2) Dimensions and length:
- (3) Slope or elevation change from point of diversion to place of use:
- (4) Present operational status:

- c. Flow rate:

- (1) Has any measurement of water through the system been made or any flow records maintained. When and what were the results?
- (2) What is the peak flow rate that has been diverted through the system for this purpose? How was it determined?
- (3) What is the average flow rate in a 24 hour period diverted through the system for this purpose?
- (4) When was water last diverted at the flow rate claimed?

- d. Volume:

- (1) What is the maximum volume used per year for this purpose? How was it determined?

EXHIBIT X-1 (cont.)

Claim No. _____

(2) Have any volume records been maintained? Please provide copies or list the results.

(3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?

e. Period of Use:

(1) What times of the year has water been used through the system for this purpose (months/days)?

(2) How many hours per day (average) is the system used for this purpose?

f. What happens to the water that is not consumed by this industrial use? Is it returned to the same source?

5. Please describe all modifications or replacements to the original water system and the date each occurred.

6. Plans, maps or photos of the water system and industrial facility would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name:

Completing : Address:

Questionnaire :

(Please Print): Phone No.:

Signature: _____ Date:

EXHIBIT X-1 (cont.)

Claim No. _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other: _____

Reason: _____ DNRC Examination
_____ Other: _____

Time and
Location: _____

Reviewer: _____ Date: _____

Remarks:

EXHIBIT X-2

Claim No. _____

QUESTIONNAIRE FOR MUNICIPAL WATER USE CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Please describe the municipal system (community water supply, homeowners association, city, etc.)
 - a. Briefly describe the size of the municipal system (number of households, businesses, parks, etc.)
 - b. When was this municipal facility initially constructed and put into operation?
 - c. When was it last operated for this purpose?
2. Please describe the physical status of the municipal operation.
 - a. What physical evidence and structures are at the site (storage tanks, reservoirs, mainlines, laterals, etc.)?
 - b. In what condition are the site and structures?
 - c. Is the water system in working order or operational?
3. Priority date:
 - a. When was water first used as part of this municipal system?
 - b. What evidence can you provide to support the date of first water use?
 - c. Is the system currently used for diverting water for municipal purposes? When was the water last used for municipal purposes?
4. Please describe the original design and operation of the water system associated with the claimed purpose.
 - a. Diversion structure:
 - (1) Method or type (pump, pipeline, dam, etc.):

EXHIBIT X-2 (cont.)

Claim No. _____

(2) Dimension (pump size, rpm, etc.; headgate dimensions; well depth, casing size, static water table; etc.):

(3) Materials:

(4) Date constructed:

(5) Present operational status:

b. Conveyance facility:

(1) Method or type:

(2) Dimensions and length:

i. Mainline

ii. Laterals

(3) Materials:

(4) Slope or elevation change from point of diversion to place of use (highest to lowest points):

(5) Present operational status:

c. Flow rate:

(1) Has any measurement of water through the system been made or any flow records maintained? When and what were the results?

(2) What is the peak flow rate that has been diverted through the system for this purpose? How was it determined?

(3) What is the average flow rate in a 24 hour period diverted through the system for this purpose?

(4) When was water last diverted at the flow rate claimed?

d. Volume:

(1) What is the maximum volume used per year for this purpose? How was it determined?

(2) Have any volume records been maintained? Please provide copies or list the results.

EXHIBIT X-2 (cont.)

Claim No.

- (3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?

e. Period of Use:

- (1) What times of the year has water been used through the system for this purpose (months/days)?

- (2) How many hours per day (average) is the system used for this purpose?

f. What happens to the water that is not consumed by this municipal system? Is it returned to the same source?

5. Please describe all modifications or replacements to the original water system and the date each occurred.

6. Plans, maps or photos of the water system and municipal would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

EXHIBIT X-2 (cont.)

Claim No. _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
 _____ Personal Interview _____ Other:

Reason: _____ DNRC Examination
 _____ Other:

Time and
Location: _____

Reviewer: _____ Date: _____

Remarks: _____

EXHIBIT X-3

Claim No. _____

QUESTIONNAIRE FOR WILDLIFE USE

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Is the place of use a natural lake, natural stream channel, man-made reservoir, or other man-made facility such as a tank or pit? Please explain.

2. Is there a man-made diversion, impoundment or other facility to divert water to the claimed place-of-use? If not, please describe how and where the water is used.

3. Is the use commercial, recreational, breeding, food, etc.?

- a. Generally, what species of wildlife use is this water right?
- b. If other than recreational, what quantity of wildlife?
- c. Are the animals fenced in, penned, or free roaming? If penned or fenced, please explain.

4. Is the point of diversion or place of use on property owned by the state or federal government? If yes, specify.

5. Please describe the design and operation of the water use.

- a. Diversion structure (if any):
 - (1) Method or type of diversion structure (dam, headgate, pump, pipeline, etc.):
 - (2) Dimensions (pump size, rpm, etc.; headgate dimensions; etc.):
 - (3) Materials:
 - (4) Date constructed:
 - (5) Present operational status:

EXHIBIT X-3 (cont.)

Claim No. _____

- b. Conveyance system (if any):
 - (1) Method or type:
 - (2) Dimensions and length:
 - (3) Materials:
 - (4) Slope or elevation change from point of diversion to place of use:
 - (5) Present operational status:
- c. Flow rate:
 - (1) Have any measurements of water through the system been made? When and what were the results?
 - (2) Have any flow rate records been maintained? Please provide copies or list the results.
 - (3) What is the peak flow rate that has been diverted through the system for wildlife? How was it determined?
 - (4) What is the average flow rate in a 24 hour period diverted through the system for wildlife?
 - (5) When was water last diverted at the flow rate claimed?
- d. Volume:
 - (1) What is the maximum volume used per year? How was it determined?
 - (2) Have any volume records been maintained? Please provide copies or list the results.
 - (3) If the water has been stored in a man-made impoundment, what are its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?

EXHIBIT X-3 (cont.)

Claim No. _____

- e. Period of use:
- (1) What times of the year has water been used through the system (months/days)?
 - (2) How many hours per day (average) has the system been used?
- f. What happens to the water after it is used for wildlife? Is it returned to the same source?

6. Priority date:

- a. When was the water first used for wildlife?
- b. What evidence can you provide to support the date of first use?
- c. Has the water been used every year since first use? If not, please explain.
- d. Is the system currently used to divert water for wildlife? When was it last used for wildlife?
- e. If not presently being used, describe any evidence at the site that water was used in the past.

7. Plans, maps, or photos of the water system and wildlife facilities would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

EXHIBIT X-3 (cont.)

Claim No. _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other:

Reason: _____ DNRC Examination
_____ Other:

Time and
Location: _____

Reviewer: _____ Date: _____

Remarks:

EXHIBIT X-4

Claim No. _____

QUESTIONNAIRE FOR FISH AND WILDLIFE CLAIMS

Please answer as completely and accurately as possible. If more space is needed use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Is the place of use a natural lake, natural stream channel, man-made reservoir, or other man-made facility such as raceways or tanks? Please explain.

2. Is there a man-made diversion, impoundment or other facility to divert water to the claimed place-of-use? If not, please describe how and where the water is used.

3. Is the water diverted only for fish, only for wildlife, or for both?

a. If for fish:

(1) Is this use commercial, recreational, breeding, food, etc.?

(2) What type of fish raised?

(3) If other than recreational, what quantity of fish?

b. If for wildlife:

(1) Is this use commercial, recreational, breeding, food, etc.?

(2) What type of wildlife?

(3) If other than recreational, what quantity of wildlife?

(4) Are the animals fenced in, penned, or are they free roaming?
If penned or fenced, please explain.

4. Is the point of diversion or place of use on property owned by the state or federal government? If yes, specify.

EXHIBIT X-4 (cont.)

Claim No.

5. Please describe the design and operation of the water use.

- a. Diversion structure (if any):
 - (1) Method or type of diversion structure (dam, headgate, pump, pipeline, etc.):
 - (2) Dimensions (pump size, rpm, etc.; headgate dimensions; etc.):
 - (3) Materials:
 - (4) Date constructed:
 - (5) Present operational status:
- b. Conveyance system (if any):
 - (1) Method or type:
 - (2) Dimensions and length:
 - (3) Materials:
 - (4) Slope or elevation change from point of diversion to place of use:
 - (5) Present operational status:
- c. Flow rate:
 - (1) Have any measurements of water through the system been made? When and what were the results?
 - (2) Have any flow rate records been maintained? Please provide copies or list the results.
 - (3) What is the peak flow rate that has been diverted through the system for fish and wildlife? How was it determined?
 - (4) What is the average flow rate in a 24 hour period diverted through the system for fish and wildlife?
 - (5) when was water last diverted at the flow rate claimed?
- d. Volume:
 - (1) What is the maximum volume used per year? How was it determined?
 - (2) Have any volume records been maintained? Please provide copies of list the results.

EXHIBITT X-4 (cont.)

Claim No. _____

- (3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimension), and maximum water depth?
- e. Period of use:
- (1) What times of the year has water been used through the system (months/days)?
- (2) How many hours per day (average) has the system been used?
- f. What happens to the water after it is used for fish and wildlife? Is it returned to the same source?
6. Priority date:
- a. When was the water first used for fish and wildlife?
- b. What evidence can you provide to support the date of first use?
- c. Has the water been used every year since first use? If not, please specify.
- d. Is the system currently used to direct water for wildlife? When was it last used for wildlife?
- e. If not presently being used, describe any evidence at the site that water was used in the past.
7. Plans, maps, or photos of the water system and fish and wildlife facilities would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

EXHIBIT X-4 (cont.)

Claim No. _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other:

Reason: _____ DNRC Examination
_____ Other:

Time and
Location: _____

Reviewer: _____ Date: _____

EXHIBIT X-5

Claim No.: _____

QUESTIONNAIRE FOR COMMERCIAL WATER USE CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Please describe the commercial facility (trailer court, restaurant, church, motel, etc.)
 - a. Briefly describe the size of the commercial facility.
 - b. How has water been used in connection with this commercial facility?
 - c. Is this a private water system or is your water obtained from a municipal water system?
 - d. When was this commercial facility initially constructed and put into operation?
 - e. When was it last operated for this purpose?
2. Please describe the physical status of the commercial operation.
 - a. What physical evidence and structures are at the site?
 - b. In what condition are the site and structures?
 - c. Is the water system in working order or operational?
 - d. If not presently being used, describe any evidence at the site that water was used in the past.
3. Priority date:
 - a. When was water first used as part of this commercial activity?
 - b. What evidence can you provide to support the date of first water use?

EXHIBIT X-5 (cont.)

Claim No.: _____

- c. Has the water been used every year since first use? If not, please explain.
- d. Is the system currently used for diverting water for commercial purposes?
When was water last used for commercial purposes?

4. Please describe the original design and operation of the water system associated with the purpose claimed.

- a. Diversion structure:
 - (1) Method or type (pump, pipeline, dam, etc.):
 - (2) Dimensions (pump size, rpm, etc.; headgate dimensions; well depth, casing size, static water table, etc.):
 - (3) Materials:
 - (4) Date constructed:
 - (5) Present operational status:
- b. Conveyance facility:
 - (1) Method or type:
 - (2) Dimensions and length:
 - (3) Materials:
 - (4) Slope or elevation change from point of diversion to place of use:
 - (5) Present operational status:
- c. Flow rate:
 - (1) Has any measurement of water through the system been made?
When and what were the results?

EXHIBIT X-5 (cont.)

Claim No.: _____

- (2) Have any flow rate records been maintained? Please provide copies or list the results.
 - (3) What is the peak flow rate that has been diverted through the system for this purpose? How was it determined?
 - (4) What is the average flow rate in a 24 hour period diverted through the system for this purpose?
 - (5) When was water last diverted at the flow rate claimed?
- d. Volume:
- (1) What is the maximum volume used per year for this purpose? How was it determined?
 - (2) Have any volume records been maintained? Please provide copies or list the results.
 - (3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?
- e. Period of use:
- (1) What times of the year has water been used through the system for this purpose (months/days)?
 - (2) How many hours per day (average) is the system used for this purpose?
- f. What happens to the water after it is used for this commercial activity? Is it returned to the same source?

EXHIBIT X-5 (cont.)

Claim No. _____

5. Please describe all modifications or replacements to the original water system and the date each occurred.

6. Plans, maps, or photos of the water system and commercial facilities would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other:

Reviewer: _____ Date: _____

Remarks:

EXHIBIT X-6

Claim No. _____

QUESTIONNAIRE FOR MINING CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Briefly describe the history of the mining activities.
 - a. What type of mining operation (placer, hardrock, etc.) has been conducted on the site(s) associated with this claim? Please explain.
 - b. Is there a milling operation associated with this water right for concentrating the ore?
 - c. What type of ore or material has been mined, explored, or milled?
 - d. What amount of material was mined, milled, or washed each year?
 - e. Are records available (i.e., mill receipts, operating permits or licenses, other written documents)? If so, please attach copies or list results.

2. Please describe the physical status of the mining operation.
a. What physical evidence and structures are at the site?

- b. Is there evidence at the site that water was used in the past? If yes, please explain.
- c. In what condition are the site and structures?
- d. Is the water system in working order or operational?
- e. If not presently being used, describe any evidence at the site that water was used in the past.

3. Priority date:
 - a. When was water first used as part of the mining activities?

EXHIBIT X-6 (cont.)

Claim No.

- b. What evidence can you provide to support the date of first water use?
 - c. Has the water been used every year since first use? If not, please explain.
 - d. Is the system presently used to divert water for mining activities? When was water last used for mining?
4. Please describe the original design and operation of the water use.
- a. Diversion structure
 - (1) Method or type of diversion structure (headgate, pump, dam, pipeline, etc.):
 - (2) Dimensions (pump size, rpm, etc.; headgate dimensions; etc.):
 - (3) Materials:
 - (4) Present operational status:
 - (5) Location on property:
 - b. Conveyance facility (if any)
 - (1) Method or type:
 - (2) Dimensions and length:
 - (3) Materials:
 - (4) Slope or elevation change from point of diversion to milling or mining equipment:
 - (5) Present operational status:
 - c. Milling or mining equipment that requires water
 - (1) Type of mining equipment:
 - (2) Type of milling equipment:
 - (3) Present operational status:

EXHIBIT X-6 (cont.)

Claim No.

- d. Flow rate
 - (1) Have any measurements of water through the system been made? When and what were the results?
 - (2) Have any flow rate records been maintained? Please provide copies or list the results.
 - (3) What is the peak flow rate that has been diverted through the system for mining? How was it determined?
 - (4) What is the average flow rate in a 24 hour period diverted through the system for mining?
 - (5) When was water last diverted at the flow rate claimed?
- e. Volume
 - (1) What is the maximum volume used per year? How was it determined?
 - (2) Have any volume records been maintained? Please provide copies or list the results.
 - (3) If water is stored in a man-made impoundment, what are its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?
- f. Period of use
 - (1) What times of the year has water been used through the system (months/days)?
 - (2) How many hours per day (average) has the system been used?
 - (3) When is use, is the diversion turned off at night, or does it run 24 hours a day?
- g. What happens to the water after being used in the mining or milling operation? Is it returned to the same source?

5. Please describe all modifications or replacements to the original water system and the date each has occurred.

EXHIBIT X-6 (cont.)

Claim No. _____

6. What is the name and registration or survey number for this mining operation? (i.e., Mineral Survey No._____, Mineral Entry No._____, Mineral Certificate No._____, Mineral Patent No._____, etc.)

7. Is the point of diversion or place of use on property owned by the state or federal government? If yes, specify.

8. Plans, maps, or photos of the water and mining systems would be helpful. In addition, copies of deeds, surveys, and operating permits or licenses would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other:

Reason: _____ DNRC Examination
_____ Other: _____

Time and
Location: _____

Reviewer: _____ Date: _____

Remarks:

EXHIBIT X-7

Claim No. _____

QUESTIONNAIRE FOR POWER GENERATION CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Briefly describe the history of the system.
 - a. When was the project initially constructed and put into operation?
 - b. When was water first used as part of the hydropower operation?
 - c. What evidence can you provide to support the date of first water use?
 - d. Is the system currently used to direct water for hydropower purposes?
When was water last used to generate power?
 - e. If the hydropower activities have not been used continuously, please list the periods (years) of operation.
2. Please describe the physical status of the hydropower operation.
 - a. What physical evidence and structures are at the site?
 - b. Is there evidence at the site that water was used in the past? If yes, please explain.
 - c. Is the system in working order or operational? Please describe its general condition.
 - d. If not presently being used, describe any evidence at the site that water was used in the past.
3. Please describe the original design and operation of the water use.
 - a. Diversion structure
 - (1) Method or type of diversion structure:
 - (2) Dimensions (pump size, rpm, etc.; headgate dimensions; etc.):

EXHIBIT X-7 (cont.)

Claim No. _____

- (3) Materials:
 - (4) Present operational status:
- b. Conveyance Facility (if any)
 - (1) Method or type:
 - (2) Dimensions and length:
 - (3) Materials:
 - (4) Elevation change from point of diversion to power plant:
 - (5) Present operational status:
- c. Power Plant
 - (1) Type:
 - (2) Nameplate capacity or design flow rate:
 - (3) Generating capacity in KW:
 - (4) Present operational status:
- d. Flow rate
 - (1) Have any measurements of water through the system been made? When and what were the results?
 - (2) Have any flow rate records been maintained? Please provide copies or list the results.
 - (3) What is the peak flow rate that has been diverted through the system? How was this determined?
 - (4) What is the average flow rate in a 24 hour period diverted through the system?
 - (5) When was water last diverted at the claimed flow rate?

EXHIBIT X-7 (cont.)

Claim No. _____

e. Volume

- (1) What is the maximum volume used for power generation per year? How was it determined?
- (2) Have any volume records been maintained? Please provide copies or list the results.
- (3) If a reservoir is involved, what is the maximum volume diverted into the reservoir per season?

f. Period of use

- (1) What times of the year has water been used through the system (months/days)?
- (2) How many hours per day (average) has the system been used?

g. What happens to the water after passing through power plant? Is it returned to the same source?

4. Please describe all modifications or replacements to the original system and the date each has occurred.

5. Is a reservoir or storage associated with this water right?

a. Describe the original storage capacity.

- (1) On stream or off stream
- (2) Surface acres (or dimensions)
- (3) Maximum water depth
- (4) Total storage capacity
- (5) Dead storage
- (6) Period of diversion into reservoir
- (7) Period of diversion from reservoir
- (8) Date constructed (1st filing)?

EXHIBIT X-7 (cont.)

Claim No. _____

- b. Describe any modification to the original storage capacity and date each has occurred.
- c. If you claimed a flow rate for storage, please indicate how the flow rate was determined?

6. Plans, maps, or photos of the water and power generation systems would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: _____
Completing : Address: _____
Questionnaire : _____
(Please Print) : Phone No.: _____

Signature: _____ Date: _____

FOR DEPARTMENT USE

Information Obtained: _____ Sent To Claimant _____ Telephone Interview
_____ Personal Interview _____ Other:

Reason: _____ DNRC Examination
_____ Other:

Time and
Location:

Reviewer: _____ Date: _____

EXHIBIT X-13

Reprinted from Bureau of Land Management Technical Manual No. 4,
Placer Examination, by John Wells, May 1973

WATER REQUIREMENTS

The source, amount, and delivered cost of water are important elements in a placer operation. In many cases they determine the type of equipment or mining method used. Water estimates for new or proposed operations are generally based on experience or working data obtained from comparable operations.

The water required for various working methods varies widely and depends on many factors. Examples that follow are intended only to show the possible range.

- a. Rockers: A steady flow of 4 or 5 gallons per minute is sufficient to operate a small (1' x 4') rocker. Water can be dipped from a barrel where steady flow is not available. Net water consumption may be as low as 50 to 100 gallons per cubic yard, if carefully saved and reused.
- b. Small-scale hand mining: Where material is loosened by picking, and shoveled into a sluice box by one or two men, 170 to 225 g.p.m. are required for a 12-inch box with steep grade.
- c. Ground sluicing: Water duty varies widely but may range between 1/10 and 3/4 cubic yard per miner's inch-day at small mines. This would be equivalent to about 22,000 to 162,000 gallons per cubic yard.
- d. Hydraulicking: Water duty varies widely and reflects the coarseness of gravel, degree of cementing, height of bank, grade of bedrock, available head, etc., and is commonly between 1/2 and 7 cubic yards per miners's inch-day. This would be equivalent to about 2,000 to 32,000 gallons per cubic yard. The better efficiencies are obtained at large, well-equipped mines. Small, 1 or 2-monitor mines operated by individual owners or lessees, usually have a water duty of less than 1 cubic yard per miner's inch-day.
- e. Stationary washing plants: These are typically owner-operated plants, fed by a dragline or a small power shovel. Most employ a trommel or other screening device ahead of the sluice. Incomplete figures indicate a range of 650 to 2,000 gallons per cubic yard.
- f. Movable washing plants and dryland dredges: In same category as stationary plants and same remarks apply. Water requirements ranging from 480 to 3,200 gallons per cubic yard have been noted. Plants equipped with Ainalay bowls (in place of sluices) generally have good water economy.

EXHIBIT X-13 (cont.)

g. Dragline dredges: Net water required for washing gravel and maintaining the pond is governed by the amount of clay, porosity of the gravel, and other factors. Wash water which is commonly supplied by an 8-inch centrifugal pump working against a 40-foot pressure head, may range between 570 to 2,500 gallons per cubic yard.

h. Bucket-line dredges: Water in circulation aboard a dredge may range from 3,500 g.p.m. to over 10,000 g.p.m. depending on digging capacity of dredge and type of material being washed. Dredges are usually provided with independent high pressure and low pressure water systems, the high pressure being used for screen sprays and bucket nozzles, and the low pressure for the gold-saving tables and general service. When working in land-locked ponds, a fresh water input of 1,000 g.p.m. to more than 2,000 g.p.m. will be needed to replace muddy water which must be pumped out of the pond (to prevent excessive mud build-up) and to maintain pond level.

EXHIBIT X-13 (cont.)

Mark O'Keefe
Program Manager, SB76
Water Rights Bureau
32 South Ewing
Helena, MT 59601

2nd Draft - Educational

RE: Mining Claims as They Apply to Senate Bill 76

In many areas of Montana, the use or historical use of water in connection with the extraction of *metallic or *non-metallic deposits is quite evident.

Mining involves the removal of materials from the earth. This is accomplished by several means, depending on the size and type of deposit. Many diverse mining and milling operations are found throughout Montana, most of which utilize ground and or surface water at some stage. If this use of water pre-dates July 1, 1973, (Water Use Act), it must be claimed under the provisions set forth by the law known as Senate Bill 76 or risk water right abandonment.

*metallic: refers to deposits of gold, silver, iron, copper,
aluminum, lead, molybdenum, zinc, etc.

*non-metallic: refers to deposits of coal, gems, talc,
limestone, phosphate, sand, gravel, rock, etc.

The major obstacle associated with quantifying those existing rights related to mining and mill operations rises from the lack of statistical information on the use. Many of these mines have not been in active operation for years and any information other than that found on the actual "Mining Patent" is difficult to locate. Unfortunately, most flows and volumes put on the Statement of Claim forms are educated guesses at best.

EXHIBIT X-13 (cont.)

The following water quantifications for mining and mill techniques are general and if measuring devices or water use records are available, they certainly should be utilized. Many uses are non-consumptive and if so, this should be coded to indicate a "flow through non-consumptive use."

Using a ratio proportion type equation it is possible to arrive at a reasonable water use equivalent. This will only be possible if you have some ore amounts or capacities to work with. If not, the following information will be of little help.

Conventional milling, which usually consists of crusher, ball mills, flotation cells, tables, etc., has a rule of thumb requirement of 40 cubic feet per day for each ton of ore processed; that is, a 100 ton mill would require a minimum of 4000 cubic feet of water a day, a 200 ton per day mill would need 8000 cubic feet of water per day.

Heap leaching operations for the precious metals uses less water than conventional milling and need is calculated on the basis of 250 gallons of water for each ton of material being leached.

I have found most water-use for mining operations being claimed under Senate Bill 76 refer to placer mines. In most cases placer mining is a non-consumptive use utilizing a sluice box, rocker, trommel or floating dredge.

A small rocker set-up (1' x 4') may utilize as little as 50-100 gallons per cubic yard of gravel washed, but most small trommels and larger sluice boxes consumption will be closer to 40 gallons of water for each cubic yard of gravel washed.

EXHIBIT X-13 (cont.)

Small scale hand placer mining: This practice usually involves loosening gravel by picking and then shoveling this material into a sluice box by one or two people. Average water use is 200 gallons per minute for a 12-inch box with a steep grade.

Jigging with a sluice box requires 12-14 gallons per minute per square inch of jig.

An average conventional cyanide mill circuit utilizes 200-600 gallons of water per ton of ore, average flotation circuit takes 600-1000 gallons of water per ton of ore.

Average table circuit uses 1000-1400 gallons of water per ton of ore.

Average jig and table circuit may use 1200-2000 gallons of water per ton of ore.

*Jig/Jigging: refers to that device or process used to concentrate and separate ore from waste material.

Stationary washing plants: These are typically owner-operated plants, fed by a dragline or a small power shovel. Most employ a trommel or other screening device ahead of a sluice. Average figures indicate a range of 400-600 gallons of water per cubic yard of gravel processed.

Movable washing plants and dryland dredges are in the same category as stationary plants and the same remarks apply. Water requirements ranging from 480-3200 gallons per cubic yard of gravel are not uncommon.

EXHIBIT X-13 (cont.)

Floating dredges on ponds recirculate the water with little water loss, but water use may vary considerably depending on the number of sluice boxes and their width, but in general need 450 – 5000 gallons per minute for the larger dredges and as low as 500 gallons per minute for the smaller floating units.

Floating dredge water recirculation is governed by the amount of silty deposits, clay, porosity of gravel and other factors. Wash water which is commonly supplied by an 8-inch centrifugal pump working against a 40-foot pressure head, may range between 570-2500 gallons per cubic yard of gravel washed.

Rusty Taylor

Water Rights Analyst
Water Rights Bureau

EXHIBIT X-14

ORSBORN METHOD

Estimation Of Mean Stream Flow

To apply the Orsborn method, the reviewer must determine (1) the watershed drainage area in square miles (mi^2) and (2) the mean basin precipitation in inches. The procedure is discussed in a Research Note in this exhibit. When the claimed period of use is less than one year, the Orsborn procedure should still be applied.

The watershed drainage area is defined by drawing a line perpendicular from the source at the POD to the nearest point on the watershed boundary. Then extend the line around the drainage area boundary. It is suggested that the drainage area, once defined, be broken into a square mile grid system for easier estimation. The mean basin precipitation can be found using precipitation maps (1941-1970 base period) prepared by the Soil Conservation Service also in this exhibit. When several isohyetal lines occur in a drainage basin, the mean basin precipitation can be a weighted average, but estimate on the high side.

The Orsborn method has five equations which vary slightly based on five hydrologically homogeneous regions in Montana. The five different regions are outlined in Figure 5 of the Research Note. If the claim is on a boundary line between two regions, choose the higher numbered region. After the region has been determined, Figure 6 of the Research Note gives the corresponding equation. (Enlarged copies of these figures are provided at the end of the Research Note.) It should be noted that the Orsborn method has not been tested for eastern Montana.

Once the average annual discharge (QAA) has been determined, the calculation worksheet and drainage area map will become part of the file.

EXHIBIT X-18
MUNICIPAL WATER NEEDS

MEMORANDUM

TO: Tim Hall, Legal Counsel
FROM: Steve Holnbeck, Hydrologist
SUBJECT: Proposed Procedure to Quantify Municipal and Domestic
Claims for Water
DATE: September 26, 1985

Currently there is no specific procedure to review water claims made by communities. The water rights procedure manual indicates that claims for municipal water shall be evaluated on a case-by-case basis. In principal this is a valid policy but more specific direction would be desirable.

Recently claims for municipal water for the community of Philipsburg were objected to by the Department of Natural Resources and Conservation (DNRC). It is likely that future objection for other communities will occur.

At your request, Laurence Siroky and I looked into the matter of quantifying the needs of typical municipalities from the DNRC perspective.

Our investigation utilized the City of Philipsburg for an example but the methods developed could be applied for any community.

At present, the standards are being developed. Information in this paper is considered tentative.

EXHIBIT X-18 (Cont.)

Background

Water demand information is well documented in literature. Standards have been developed to evaluate the necessary requirements. A rational procedure is thus available to determine the use of water by municipalities.

Breakdown of Requirements

Municipal and residential water consumption can be separated into the following categories:

1. Yearly average consumption
2. Maximum daily use
3. Maximum hourly use
4. Municipal fire protection requirements
5. System capacity
6. System efficiency
7. Operating records

Investigation of these seven categories will enable the determination of a reasonable rate and volume for the community making a claim. The information will also indicate which category results in a limiting condition with respect to rate and volume.

EXHIBIT X-18 (Cont.)

Yearly Average Consumption

Expressed in gallons per capita per day (gpcd), this figure is typically used to compute the volume of water used by a city or town. When multiplied by the population, the total volume over a given period of time can be quantified.

In the case of the Yellowstone Reservations process, it was decided that a reasonable figure of 212 gpcd be used for municipalities claiming reserved water.

Gehm and Bregman¹ contains information that shows residential and total community water use for four Montana cities as follows:

<u>City</u>	Residential Only <u>gpcd</u>	Total Per Capita <u>gpcd</u>
Great Falls	137	228
Missoula	214	429
Billings	119	208
Butte	212	300

Figures reported are for the use and not necessarily the point of withdrawal. Total per capita figures include all industrial and other uses, in addition to the residential use.

¹ Gehm, H.W. and Jacob I. Bregman, Handbook of Water Resources and Pollution Control. Van Nostrand Reinhold Company, 1976, pp. 63-64.

EXHIBIT X-18 (Cont.)

In the case of small communities, the figures for residential use would be more appropriate, unless it could be demonstrated otherwise.

A tentative figure of 250 gpcd is proposed to determine the annual volume of water to claim. If a particular community can demonstrate a different figure, it could be used in place of the proposed figure.

Maximum Daily and Hourly Use

Within the day water demand varies. Hammer² reported the following data on these parameters:

Variations in Residential Water Consumption (gpcd)		
	Range	Average
Maximum Daily Use	160 to 520+	230
Maximum Hourly Use	200 to 1300+	390

From a conservative standpoint, the high end of the range is proposed for use in assessing a water claim. This equals 520 gpcd for maximum daily use and 1300 gpcd for maximum hourly use.

² Hammer, Mark J., Water and Wastewater Technology. John Wiley and Sons, Inc., p. 173.

EXHIBIT X-18 (Cont.)

Municipal Fire Protection Requirements

Standards have been developed by the Insurance Services Office (ISO)³, Municipal Survey Service⁴ for determining fire protection needs. Criteria have also been developed by the American Water Works Association (AWWA) and the National Board of Fire Underwriters (NBFU).

The proposed method to assess fire flow is based on small community conditions. Under no cases should the fire flow be less than 500 gallons per minute.

An equation by ISO relates fire flow to total floor area and type of construction. The equation is:

$$F = 18C(A)^{0.5} \quad (1)$$

Where:

F = required fire flow in gallons per minutes (gpm)

C = coefficient based on type of construction

A = total floor area of typical residence (ignore
basement)

Assuming a total residential floor area of 3,000 square feet and wood frame construction (C=1.5) yields a required fire flow of 1,479 gpm. The calculated fire flow is reduced by 25 percent for light fire loading conditions, ISO (1772). Light fire loading is considered to be occupancies such as all forms of housing, churches, schools, offices and other public buildings. Thus, the final required fire flow is approximately 1,110 gpm.

³ Grading Schedule for Municipal Fire Protection, Insurance Services Office, Municipal Survey Service, 160 Water Street, New York, N.Y. 10038, 1973.

⁴ Guide for Determination of Required Fire Flow, Insurance Services Office, June, 1972.

EXHIBIT X-18 (Cont.)

A second procedure presented by NBFU relates population to required fire flow. Based on this procedure, the required flow is 1200 gpm for a population of 1,200 as in the case of Philipsburg.

ISO (1972) indicates that a fire flow of 1200 gpm would satisfy criteria for one and two-family residential areas not exceeding two stories in height with the distance between dwelling units between 11 and 30 feet.

According to ISO (1973) the required duration for a fire flow of 2,500 gpm or less is 2 hours.

Thus, a fire flow of 1,200 gpm for 2 hours for the communities of Philipsburg is satisfactory.

System Capacity

In cases where information on the water distribution system is available, a determination can be made on the system capacity.

Typically the system needs to be described in terms of pipe size, condition, material and length. If the system is gravity fed, elevations at the inlet and outlet to the system are needed to determine the total available static head. Reservoirs, water towers and standpipes must be described in terms of the water surface elevations for those facilities. A pressure system containing booster or lift pumps must include information on the capacity of the pump (generally in the form of a pump curve).

Hydraulic calculations can then be performed to determine the capacity of the distribution system.

EXHIBIT X-18 (Cont.)

System Efficiency

Once the water supply is confined in the distribution system (typically a pipeline) the efficiency is quite high (90~95 percent). However, many diversions begin with an open ditch, flume or other structure that may be of much lower efficiency.

For this condition, the compute capacity for the system may be increased on the basis of an efficiency factor. Determination of the system efficiency is accomplished by obtaining information on the layout and condition of the system from point of diversion to at least the point of distribution. Point of distribution is defined in this paper as the point where the main pipeline begins to branch into many small service lines.

Operating Records

Records are generally kept at chlorination stations, pumphouses or liftstations where there is a need to monitor flowrate. These records can be used to verify, support or dispute proposed water claims.

Application of Procedure to City of Philipsburg

At this time, the City of Philipsburg has provided some information on their water distribution system. We are in the process of evaluating that information for determining the system capacity.

EXHIBIT X-18 (Cont.)

In the meantime, the following example is given to demonstrate how the rate and volume would be quantified, assuming no additional information.

Peak Flowrate

The maximum flowrate is assumed to be the sum of the maximum hourly flowrate plus the fire flow requirement. This is a conservative assumption in that the two events are treated as though they happened concurrently.

$$\begin{aligned}\text{Max. daily} &= \frac{1,300 \text{ gpcd} \times 1,200 \text{ pop.}}{24 \text{ hr/day} \times 60 \text{ min/hr} \times 448.8 \text{ gpm/cfs}} \\ \text{in cubic feet/sec (cfs)} &= 2.41 \text{ cfs} \\ \text{Fire demand} &= 1,200 \text{ gpm by ISO and NBFU} \\ &= 1,200 \text{ gpm} / 448.8 \text{ gpm/cfs} = 2.67 \text{ cfs} \\ \text{Total peak rate} &= 2.41 + 2.67 = 5.08 \text{ cfs}\end{aligned}$$

Volume

Total volume is equal to the average daily per capita use multiplied by the population. In the case of Philipsburg, the volume is computed as follows:

$$\begin{aligned}\text{Volume} &= \frac{250 \text{ gpcd} \times 1200 \text{ pop} \times 365 \text{ days}}{325,900 \text{ gals/acre-foot}} = 336 \text{ acre-feet}\end{aligned}$$

Additional volume for storage tanks in the system would be added to this figure.

EXHIBIT XI-2 **DNRC LATE CLAIM CLARIFICATION FORM**

Claim No. _____

Coding/
Asterisk

Items

Clarified Data

____ []
____ []

1. Name:
2. Address:

1. _____
2. _____

____ []

3. Use (Purpose):

3. _____

_____ []	4. Method of Irrigation:	4. _____
_____ []	5. Source:	5. _____
_____ []	6. Source Type (S or G):	6. _____
_____ []	7. POD:	7. _____

_____ []	8. Means of Diversion:	8. _____
_____ []	9. No. of Livestock (ST):	9. _____
_____ []	10. No. of Households (DM):	10. _____
_____ []	11. POU:	11. _____

_____ []	12. Flow Rate:	12. _____
_____ []	13. Volume:	13. _____
_____ []	14. Climatic Area (IR):	14. _____
_____ []	15. Period of Use:	15. _____
_____ []	16. Type of Right:	16. _____
_____ []	17. Priority Date:	17. _____

Reservoir Record: _____ Yes (see reservoir code sheet) _____ No
 Basin Code Okay: _____ Yes _____ No (if no, change on claim)
 Fee Okay: _____ Yes _____ No (if no, explain below)
 Documentation Attached: _____ Yes _____ No
 Map Attached: _____ Yes _____ No
 Notarized Signatures: _____ Yes _____ No

Telephone Contact: _____ Yes _____ No Date: _____
 Letter Contact: _____ Yes _____ No Date: _____
 Interview: _____ Yes _____ No Date: _____

ADDENDUMS: _____ Yes _____ No type: _____
 GENERAL COMMENTS

Clarified By: _____ Date: _____
 Coded by: _____

EXHIBIT XI-2
DNRC LATE CLAIM CLARIFICATION FORM

Claim No. _____

<u>Asterisk</u>	<u>Items</u>	<u>Clarified Data</u>
[]	1. Name: 2. Address:	1. _____ 2. _____ _____ _____ _____
[]	3. Use (Purpose): 4. Method of Irrigation:	3. _____

EXHIBIT XII-1

April 2, 2003

D.N.R.C.

41E -W-301224-00

***** REVIEW ABSTRACT *****

coding

WATER RIGHT NUMBER 41E -W-301224-00

___[*]OWNERS: SCHMANSKY RANCH CO
% FRED SCHMANSKY
PO BOX 9999
FLOODPLAIN MT 59000

OW01 TRANSFER PROCESSED TO ADD NEW OWNERS. WATER RIGHT WILL
BE SPLIT INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

___[]PURPOSE (USE): IRRIGATION
TYPE OF IRRIGATION SYSTEM: SPRINKLER/FLOOD

___[*]SOURCE: LONG CREEK
SOURCE TYPE: SURFACE WATER

___[]PRIORITY DATE: 1866
___[] TYPE OF RIGHT: FILED

PR51 THE CLAIMED PRIORITY DATE DIFFERS FROM THE
EARLIEST DATE ON THE FILED NOTICE. THE CLAIMED
PRIORITY DATE CANNOT BE SUBSTANTIATED.

___[*]FLOW RATE: 1.17 CFS (STD), CLAIMED 2.00 CFS
(COMPARISON STAT: 17.000 GPM/AC)

FR51 FLOW RATE MAY REQUIRE MODIFICATION BASED ON
RESOLUTION OF MAXIMUM ACRES ISSUES.

___[*]VOLUME: 0.00
CLIMATIC AREA: 4

THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

___[]MAXIMUM ACRES: 1,800.00

___[]PERIOD OF USE: APRIL 15 TO OCTOBER 19

___[*]POINTS OF DIVERSION AND MEANS OF DIVERSION:

	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY	MEANS	TRIB
DV01				NWN	NWNW	05	06N	17W	JE	HG N
DV02				SWN	ESW	04	06N	07W	JE	DM N
DV03				SEN	WNE	32	07N	07W	TE	HG Y

SN01 POINT OF DIVERSION NO. 3 IS ON AN UNNAMED TRIBUTARY
OF LONG CREEK.

EXHIBIT XII-1 (cont.)

April 2, 2003
coding

DNRC REVIEW ABSTRACT (CONT.)

41E -W-301224-00

RESERVOIR: (DAM LOCATION)

	ON/OFF/R	QTR	SEC	SEC	TWP	RGE	CNTY
RS01	ON-STREAM	NESW	04	06N	07W	JE	

RESERVOIR DATA: CAPACITY 6.4 DAM HT 10 SURFACE AREA 1.40

RN51 THE CAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE BEEN
ESTIMATED BY THE DNRC.

[] PLACE OF USE FOR IRRIGATION:

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	360.00						05	06N	07W JE
002	360.00						04	06N	07W JE
003	160.00						33	07N	07W JE
004	320.00				E2		32	07N	07W JE
005	360.00						29	07N	07W JE
006	160.00				NE		08	06N	07W JE
007	80.00				N2SE		30	07N	07W JE
TOTAL 1800.00									

PL51 THE JEFFERSON COUNTY WATER RESOURCES SURVEY (1956)
SHOWS 500 ACRES BEING IRRIGATED. A DESCRIPTION OF
THESE ACRES IS IN THE CLAIM FILE.

PL53 USDA AERIAL PHOTOGRAPH NO. 179-33, DATED 8/21/79,
SHOWS 1540 ACRES BEING IRRIGATED. A DESCRIPTION OF
THESE ACRES IS IN THE CLAIM FILE.

PL55 A FIELD INVESTIGATION CONDUCTED ON 3/12/86 FOUND 1600
ACRES PRESENTLY BEING IRRIGATED. SEE CLAIM FILE FOR
COMPLETE REPORT.

SUPPLEMENTAL RIGHTS: MAX COMBINED ACRES 1820.00
W301224-00, W301225-00, W301226-00, W301227-00, W301228-00,
W301229-00, W301230-00.

GENERAL EXAMINATION REMARKS:

AM51 AMENDMENT WAS SUBMITTED 08/30/82. THE AMENDMENT WAS
NOT IMPLEMENTED DUE TO DISAGREEMENT WITHIN THE
OWNERSHIP.

SR51 THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF
SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING
RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUES

TR01 NOTICE OF WATER RIGHT TRANSFER RECEIVED 04/11/89.

TR03 NOTICE OF WATER RIGHT TRANSFER RECEIVED 02/21/91.

EXHIBIT XII-1 (cont.)

April 2, 2003

DNRC REVIEW ABSTRACT (CONT.)

41E -W-301224-00

____ UNPUBLISHED INFORMATION:
FEE RECEIVED \$40.00
DATE RECEIVED APR 15, 1982

* POTENTIAL ERROR/WARNING MESSAGES *
* missing or incomplete priority date (D01) *
* DV01 invalid township, range, or section (I05) *
* DV03 invalid county for township and range (I04) *
* *

REVIEWED BY: _____ DATE: _____
ADDENDUMS: ____ YES ____ NO (NOS: ____ DVRS ____ RSRV ____ POU ____ RMRK ____ OWNER)

CODED BY: _____ DATE _____

EXHIBIT XII-2

COMPUTER STANDARDS AND GENERATED REMARKS

REVIEW ABSTRACT PROGRAM AND DECREE PROGRAM

The review abstract program is a working document program. The program prints comparisons, all remark codes and exact text, values before and after standards, keep flags, canned text under certain criteria, and also prints error/warning messages and editing comments.

The decree program is a finished document program. The program prints, in the same order as the review abstract program, most remarks in full text (remark codes are not printed and abbreviated text remarks are converted), canned text under certain criteria.

1. General Information (All Uses):

If the flow/volume value equals zero or some value with no keep flag, then programmed remarks are printed (i.e., FR01 indicates a computer generated remark) and stored by standards.

If any flow/volume value (including zero) has a keep flag, then no generated computer remarks are printed for that element.

Skip a line between remarks whose ID numbers are not consecutive, or have different ID code letters.

Print any remark beginning with double asterisks so the asterisks stand out in the margin.

Flow rate should be expressed in either gallons per minute (gpm) or cubic feet per second (cfs) units. Flow rates of less than one cfs should be converted into gpm units. Volume should be expressed in units of acre-feet per year. (Note: review prints it, standards stores it, decree reads it)

Review program prints all water rights. Decree program prints only water rights with "W", "O" and "X" prefix ("Z", "J", and suppressed from decree).

Review abstract program prints abbreviated remarks in abbreviated format. Decree program prints full text of remark.

Edit Check is the error/warning message portion of the review abstract for a basin or group of water numbers.

2. VI.E.2.

Computer prints "GOVT" next to a lot number when a lot number is part of a POD and/or POU legal land description and is not accompanied by a subdivision (SB) remark.

EXHIBIT XII-2 (cont.)

STANDARDS PROGRAM

The standards program is an update program for each water right and shows changes, if any, to the flow rate, volume and remarks. This program also formulates error messages when standards couldn't apply. The only output for this program are indexes.

1. General Information (All Users)

Carry all applied standards or any corrections of flow rate and volume to the water right record, as well as corresponding purpose and diversion records.

Carry any corrections of period of use from purpose record to all diversion records.

Renumber parcel records to consecutive order if needed.

Flow rate should be expressed in either gallons per minute (gpm) or cubic feet per second (cfs) units. Flow rates of less than one cfs should be converted into gpm units. Volume should be expressed in units of acre-feet per year. (NOTE: review prints it, standards stores it, decree reads it)

Check water right rates and volumes against purpose record rates and volumes, diversion rates, and well rates, and change purpose records flow and volume values to match. Also change period of diversions to match purpose period of use.

As of 11/90, the standards program no longer applies to the period of use.

2. VII.B.3.a Irrigation Flow Rate

Criteria: decreed right
flow rate > 33.7 gpm/acre
no keep flag

Computer prints:

FR51THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER
ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK
OF DATA. THE FLOW RATE EQUALS _____GPM PER
ACRE.

(NOTE: review prints it, standards stores it, decree reads it)

3. VII.B.3.b. Irrigation Flow Rate

Criteria: filed or use right
flow rate > 17 gpm/acre
no keep flag

Computer action:

- a. flow rate reduced (either in cfs or gpm) to 17 gpm/acre. Flows greater than 448.8 gpm will be listed as gpm or cfs, and those less than 1 cfs will be listed as gpm.

EXHIBIT XII-2 (cont.)

3. VI.F.5. Interbasin Transfer Claims

In the POU basin, the claim will only be noticed. See Figure VI-5 for format and wording.

VI-5 for format and wording.

(NOTE: applies only to decree program)

4. VI.H.3.

When a Y or N reservoir record exists, print review abstract in following order:

- reservoir designation
- onstream or offstream designation
- maximum capacity, dam height, and surface area
- reservoir/lake name, if any, will be printed

When a R reservoir record exists, print review abstract in following order:

- reservoir designation
- R designation
- legal land description
- reservoir/lake name will be printed under source name

Example: SOURCE: MAD DOG CREEK
 SOURCE TYPE: SURFACE WATER
 RESERVOIR/LAKE NAME: MILLER RESERVOIR

(NOTE: review program – prints all reservoir records
 decree program – prints reservoir record only if Y or N
 - prints reservoir/lake name)

5. VI.J.2.

Time of day as part of priority date will be suppressed.

(NOTE: applies to review and decree programs)

6. VII.B.3.b., VIII.B.3.b, IX.A.3.a, X.B.3.b Onstream Reservoirs

Criteria: all uses
 zero flow rate
 no keep flag
 onstream reservoir ("N" reservoir code)
 filed or use right

Computer prints:

NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS
ONSTREAM RESERVOIR.

(NOTE: remark not stored in computer data base)

EXHIBIT XII-2 (cont.)

7. VII.B.3.b. Irrigation Flow Rate

Criteria: method of irrigation type = D
zero flow rate
no keep flag
no onstream reservoir
filed or use right

Computer prints:

NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF
DIRECT FLOW WATER SPREADING.

(NOTE: remark not stored in computer data base)

8. VII.B.3.b. Irrigation Flow Rate

Criteria: method of irrigation = N
zero flow rate
no keep flag
no onstream reservoir
filed or use right

Computer prints:

NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL
SUBIRRIGATION.

(NOTE: remark not stored in computer data base)

9. VII.B.3.b. Irrigation Flow Rate

Criteria: method of irrigation = O
zero flow rate
no keep flag
no onstream reservoir
filed or use right

Computer prints:

NO FLOW RATE HAS BEEN DECREED FOR THIS NATURAL OVERFLOW
METHOD OF IRRIGATION.

(NOTE: remark not stored in computer data base)

10. VII.C.3.a. Irrigation Volume

Criteria: zero volume
no keep flag
any type of right (including decreed rights)

Computer prints:

THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE
AMOUNT PUT TO HISTORICAL AND BENEFICAL USE.

(NOTE: remark not stored in computer data base)

11. VII.D.1.a.

Computer derives total acres under "Place Of Use" on worksheets and abstracts by adding
the individual parcel acres.

(NOTE: applies only to review and decree program)

EXHIBIT XII-2 (cont.)

12. VII.E.2.

Based on the data in the examination worksheet supplemental rights statements, the computer relates all supplemental irrigation rights and prints the following remark:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE
SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING
PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY
OVERLAPPING PARCELS OF THE CLIMANT'S TOTAL 99999.99 ACRES.
EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF
THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE
WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO
HISTORICAL AND BENEFICIAL USE.

W000000-00, W000000-00, W000000-00, W000000-00.

(NOTE: Remark is not stored in computer data base, but data in the supplemental rights statement on the examination worksheet is stored. Review prints acres and W numbers, decree program prints full text.)

13. VII.F.3.b.

"J" numbers will not be requested in decree program. Only W, O and X will be printed in decree.

14. IX.A.3.a. Stock Flow Rate

Criteria: use = ST
zero flow rate
no keep flag
no onstream reservoir (if N, go to # 15)

Computer prints:

NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF
STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH
SYSTEM.

(NOTE: remark not stored in computer data base)

15. IX.B.1. Stock Volume

Criteria: use = ST
zero volume
no keep flag

Computer prints:

THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER
CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE
RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS
SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND
HISTORICAL USE OF THE AREA SERVICE BY THIS WATER SOURCE.

(NOTE: remark not stored in computer data base)

16. X.B.3.c.

Criteria : use = FW, WI, RC, or NV
 zero flow rate
 zero volume
 no keep flag

Computer prints:

THE FLOW RATE AND VOLUME ARE LIMITED TO THE MINIMUM
AMOUNTS NECESSARY TO SUSTAIN THIS PURPOSE. THIS RIGHT
SHALL CONTINUE TO BE UTILIZED IN ACCORDANCE WITH
HISTORICAL PRACTICES.

(NOTE: remark not stored in computer)

17. X.B.3.d.

Criteria: use = MN
 zero volume
 no keep flag

Computer prints:

THIS WATER RIGHT IS LIMITED TO THE VOLUME OF WATER
HISTORICALLY USED FOR MINING PURPOSES.

(NOTE: remark not stored in computer)

18. X.B.3.f.

Criteria: use = FP
 zero flow rate
 zero volume
 no keep flag

Computer prints:

THE FLOW RATE AND VOLUME OF THIS WATER RIGHT ARE LIMITED
TO THE MINIMUM AMOUNTS NECESSARY FOR FIRE PROTECTION
PURPOSES.

(NOTE: remark not stored in computer)

19. XI.E.4.

Computer prints terminated claim abstracts based on "O" prefix.

- Suppress the printing of 'canned' remarks for flow rate and volume.
- Print only TC and GI remarks under General Examination Remarks.
- Suppress printing:
 - Type of irrigation system
 - Source type
 - Type of right
- Print all other remarks under Unpublished Information.

(NOTE: review program – all four indents apply
 decree program – only indents 1, 2, and 3 apply)

EXHIBIT XIII-4

DECREE INDEX INSTRUCTIONS

The attached index is designed to help a person research and find water rights included in the decree. The decree consists of a computer-printed abstract for each individual water right decreed in the basin. Depending on the number of water rights within a basin, the decree may be in one or more volumes. Each volume is organized numerically by a water right identification (ID) number.

Whenever a water right is referred to or discussed, use the entire water right ID number. This is the best way to be sure that everyone is communicating about the same water right.

Example of ID number: 41H-W-119240-00

41H	Code for drainage basin.
W-119240-00	Specific identification number assigned to each water right by Department of Natural Resources and Conservation (DNRC)

There are six sections to the index. Each section is organized in a different manner, as outlined below.

1. SOURCE NAME INDEX

This index lists all water rights alphabetically by the source name (source at point of diversion). If the point of diversion of a water right is not on the "main stem" of the source listed, a two letter tributary code will be shown immediately to the left of the source name. For example, UT West Gallatin River means the water right is diverted from an Unnamed Tributary to the West Gallatin River. Additional tributary codes are: SP (spring), WS (waste and seepage), SI (subirrigation), NP (natural pit), MP (manmade pit).

Some sources have more than one commonly used name but only one has been selected as the standardized name. Standardization was based on names designated by the United States Geological Survey, Water Resources Survey, or that in most common local usage. It is recommended that all known names be checked. Also keep in mind that some source names (Spring Creek, Deer Creek, etc..) might identify more than one stream in a basin.

Water rights with the same source name are listed chronologically by priority date. This secondary sort is useful in identifying the seniority of water rights on a specific source.

2. OWNER NAME INDEX:

This index organizes all water rights alphabetically by all owner names. If you want to locate John Q. Public's water rights, look under "P" for Public. If a partnership or corporation is involved, such as Big Sky Angus Ranch, look under "B" for Big. Be sure to look for all likely owner names (ranch name, estate name, etc.) when you use this index as some owners filed rights both under a corporate name and individually.

3. POINT OF DIVERSION INDEX:

In this index, every point of diversion for each water right in the basin is listed by legal land description. The land descriptions are listed from lowest numbered township and range to highest numbered township and range. Within each township and range the sections are listed numerically.

Water rights with the same point of diversion are listed chronologically by priority date. This secondary sort is useful in identifying the seniority of water rights diverted at a particular location.

EXHIBIT XIII-4 (cont.)

4. PRIORITY DATE:

All water rights within the drainage are listed from earliest to latest priority date according to month/day/year. Where no priority date has been decreed, the index shows 00/00/0000. Check the individual decree abstract for an explanation.

Water rights with the same priority date are organized alphabetically by source name. For example, all June 15, 1865, water rights from the West Gallatin River would be together.

5. WATER RIGHT ID INDEX:

Every water right has been assigned an identification number, for example, 41H-W-119240-00. This index organizes all water right ID numbers in numerical order from lowest to highest.

6. ISSUE REMARKS INDEX:

This index is a list of the remarks used by the Water Courts to identify certain problems or issues in the decree. The Water Court used these remarks when there was insufficient information to resolve a problem or potential problem.

This index is arranged numerically by water right ID number. For each right listed the use, flow rate, priority date, source name, and owners are given along with the text of the issue remarks.

SUMMARY:

If you have questions about how to look up water right information in these indexes or how to read the decree abstracts, please contact the DNRC Water Rights Bureau Field Office listed in the Notice of Entry for the decree of this basin.

If you have questions about the correctness of any information in a particular water right, contact the Water Court and perhaps file an objection. How to file an objection is outlined in the Notice of Entry for the decree in each basin.

EXHIBIT XIII-4 (cont.)

WATER RIGHT ID	FLOW USE	PRIORITY RATE	POINT OF DIVERSION DATE	QTR SEC SEC TWP RGE CN	TRIB	SOURCE NAME	OWNER NAME			
41H-W-119240-00		IR	9.33C	06/15/1904	NENWNE	3 02S 04E GA	WEST GALLATIN RIVER	VALLEY DITCH CO		
41H-W-114869-00		IR	1.23C	06/20/1905	NENWSW	27 01S 04E GA	WEST GALLATIN RIVER	EMMELKAMP	VIVIAN	R
								EMMELKAMP	TRUMAN	L
41H-W-055122-00		ST		03/07/1906	S2	28 07S 04E GA UT	WEST GALLATIN RIVER	US DEPT OF AGRICULTURE FOREST S		
41H-W-022541-00		IR	.75C	03/07/1906	SESWSE	19 01N 04E GA	WEST GALLATIN RIVER	KEYES	E JANE	
								SMITH	C SPENCER	
41H-W-055131-00		ST		06/01/1906	E2	32 07S 04E GA UT	WEST GALLATIN RIVER	US DEPT OF AGRICULTURE FOREST S		
41H-W-055132-00		ST		06/01/1906		32 07S 04E GA UT	WEST GALLATIN RIVER	US DEPT OF AGRICULTURE FOREST S		
41H-W-055133-00		ST		06/01/1906	S2	28 07S 04E GA UT	WEST GALLATIN RIVER	US DEPT OF AGRICULTURE FOREST S		
41H-W-138863-00		ST		01/07/1910	NENWSW	23 02S 04E GA	WEST GALLATIN RIVER	ECTON	RAY	D
								ELLIOT	ADA	E
41H-W-140994-00		IR	2.00C	05/21/1911	NESWNE	16 01S 04E GA	WEST GALLATIN RIVER	HEINTZ	THOMAS	M
41H-W-210619-00		ST		05/23/1911	SESESW	9 01S 04E GA	WEST GALLATIN RIVER	BEAN	BRADLEY	J
								BEAN	JACQUELINE	M
41H-W-030586-00		IR	2.50C	06/01/1912	SESESE	15 03S 04E GA UT	WEST GALLATIN RIVER	A H BLACK CO		
41H-W-136826-00		DM	12.00G	08/13/1912	SESWSW	16 07S 04E GA SP	WEST GALLATIN RIVER	TONN	WILLABELLE	L
								TONN	KENNETH	E
41H-W-015370-00		IR		06/30/1913	SW	20 01N 04E GA SI	WEST GALLATIN RIVER	MYERS	GRACE	E
41H-W-015369-00		ST	30.00G	6/30/1913	SWSW	20 01N 04E GA WS	WEST GALLATIN RIVER	MYERS	GRACE	E
41H-W-140698-00		IR	1.25C	05/10/1914	NESENE	20 07S 04E GA SP	WEST GALLATIN RIVER	TONN	KENNETH	E

NOTE: This is a sample of the Source Name Index. The other indexes have the same seven (7) columns except for the Issue Remarks Index.

- Column 1: This is the water right identification number. This number is necessary to look up a water right abstract in the decree. The best way to request information from either the Water Court or the DNRC for a particular water right is to use this entire number.
- Column 2: This two-letter code designates what the water is used for in this water right. The most common codes are ST for stockwater, DM for domestic, and IR for irrigation. A list of all use codes is on page 4 of these instructions.
- Column 3: This number designates the flow rate for this water right. The letter "C" after the number means the flow rate is measured in cubic feet per second. A letter "G" means gallons per minute. A blank means the Water Court did not quantify a flow rate for this right. Reasons for this can be found in the Findings of Fact and Conclusions of Law for the decree.
- Column 4: This is the priority date for this water right written month/day/year. A 00/00/0000 priority date is explained on the abstract for that right.
- Column 5: This column gives the point of diversion for this water right. All indexes except the Point of Diversion Index list only one point of diversion for each right regardless of the number of diversions claimed. The legal land description is in the format: Quarter Section-Section-Township-Range-County. Counties are listed as two-letter codes. A list of county codes is on page 4 of these instructions.
- Column 6: This is the name of the source of water for the right. A blank space usually indicates a problem with identifying the claimed source. Some names have a two letter code to the left of the source name. This indicates the diversion is on a tributary of the named source listed. These tributary codes are: (UT) Unnamed, (SP) Spring, (WS) Waste and Seepage, (SI) Subirrigation, (MP) Manmade Pit, and (NP) Natural Pit.
- Column 7: This is the owner or owners of this water right. All owners of each right are listed.

EXHIBIT XIII-4 (cont.)**COUNTY CODES**

BE	Beaverhead	MC	McCone
BH	Big Horn	ME	Meagher
BL	Blaine	MI	Mineral
BR	Broadwater	MS	Missoula
CA	Carbon	MU	Musselshell
CH	Chouteau	PA	Park
CR	Carter	PE	Petroleum
CS	Cascade	PH	Phillips
CU	Custer	PI	Prairie
DA	Daniels	PO	Pondera
DL	Deer Lodge	PR	Powder River
DW	Dawson	PW	Powell
FA	Fallon	RA	Ravalli
FE	Fergus	RI	Richland
FL	Flathead	RO	Roosevelt
GA	Gallatin	RS	Rosebud
GF	Garfield	SA	Sanders
GL	Glacier	SB	Silver Bow
GR	Granite	SG	Sweet Grass
GV	Golden Valley	SH	Sheridan
HI	Hill	ST	Stillwater
JB	Judith Basin	TE	Teton
JE	Jefferson	TO	Toole
LA	Lake	TR	Treasure
LC	Lewis and Clark	VA	Valley
LI	Liberty	WH	Wheatland
LN	Lincoln	WI	Wibaux
MA	Madison	YE	Yellowstone
		YP	Yellowstone Park

USE CODES

AS	agricultural spraying	LG	lawn and garden
CM	commercial	MC	municipal
DM	domestic	MD	multiple domestic
DW	dewatering	MN	mining
EC	erosion control	NV	navigation
ED	exploratory drilling	OF	oil well flooding
FC	flood control	OT	observation & testing of groundwater aquifer
FP	fire protection	PA	pollution abatement
FR	fish raceways	PG	power generation
FW	fish and wildlife	RC	recreation
GP	geothermal, power generation	SC	sediment control
IN	industrial	ST	stockwatering
IR	irrigation	WI	wildlife
IS	institutional		

EXHIBIT XIII-5
CHANGE OF OWNERSHIP LETTER
(Use Regional Office Letterhead)

January 10, 2000

John Q. Wateruser
Bottomland Ranch
Floodplain, MT 59999

RE: Water Right No. 99Z-W999999-00

Dear Mr. Wateruser:

Do you claim any interest to the above water rights? Water right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows you may be the party who is the successor in interest to these water rights.

If you are the present owner of these water rights, please fill out the enclosed ownership update form and send or take it to the Water Resources Regional Office in your area. Montana Statute 85-2-424, MCA, requires this ownership update be filed.

After the Department has received the ownership update form, your name will be added as an owner to this water right. The enclosed notice and water right abstracts are for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner or choose not to maintain entitled interest, we would appreciate having that information for our records.

Please contact this office if you need further information. Thank you for your attention to this matter.

Sincerely,

Kraig VanVoast
Water Resources Specialist

Enclosures: Ownership Update Form
 Notice of Availability
 Water Right Abstracts

EXHIBIT XIII-6

(CHANGED TO EXHIBIT XIII-5)

EXHIBIT XIII-7

(DELETED)

EXHIBIT XIII-8

(DELETED)

EXHIBIT XIII-9

(CHANGED TO EXHIBIT XIII-6)